

## FREEDOM COURT REPORTING

<p style="text-align: center;">Page 1</p> <p>1        IN THE UNITED STATES DISTRICT COURT 2        FOR THE MIDDLE DISTRICT OF ALABAMA 3                    SOUTHERN DIVISION 4 5        NANCY MARTIN and 6        MARY BETH BRACKIN, 7                Plaintiffs, 8        vs.            CASE NO. 1:05-CV-1172-MEF 9        CITY OF DOTHAN and 10        JUDGE ROSE EVANS-GORDON, 11                Defendants. 12 13 14        * * * * * 15        DEPOSITION OF IVAN KEITH GRAY, taken 16        pursuant to stipulation and agreement before Sherry 17        McCaskey, Certified Court Reporter and Commissioner 18        for the State of Alabama at Large, in the Dothan 19        Civic Center, 126 N. Andrews Street, Dothan, 20        Alabama, on Wednesday, October 31, 2007, commencing 21        at approximately 1:55 p.m. 22        * * * * * 23</p>	<p style="text-align: center;">Page 3</p> <p>1        STIPULATIONS 2        It is hereby stipulated and agreed by and 3        between counsel representing the parties that the 4        deposition of IVAN KEITH GRAY is taken pursuant to 5        the Federal Rules of Civil Procedure and that said 6        deposition may be taken before Sherry McCaskey, 7        Certified Court Reporter and Commissioner for the 8        State of Alabama at Large, without the formality of 9        a commission; that objections to questions other 10       than objections as to the form of the questions need 11       not be made at this time but may be reserved for a 12       ruling at such time as the deposition may be offered 13       in evidence or used for any other purpose as 14       provided for by the Federal Rules of Civil 15       Procedure. 16        It is further stipulated and agreed by and 17        between counsel representing the parties in this 18        case that said deposition may be introduced at the 19        trial of this case or used in any manner by either 20        party hereto provided for by the Federal Rules of 21        Civil Procedure. 22        * * * * * 23</p>
<p style="text-align: center;">Page 2</p> <p>1        APPEARANCES 2        FOR THE PLAINTIFFS: 3        ISHMAEL JAFFREE, ESQUIRE Jaffree Law 4        951 Government Street Suite 415 5        Mobile, Alabama 36604 6        FOR THE DEFENDANTS: 7        CAROL SUE NELSON, ESQUIRE Maynard, Cooper &amp; Gayle 8        Attorneys at Law 2400 Amsouth/Harbert Plaza 9        1901 Sixth Avenue North Birmingham, Alabama 35203 10 11        * * * * * 12        EXHIBIT INDEX 13        PLAINTIFFS' EXHIBIT NO.: 14        14 Interview transcript            40,41,35 15        15 Article from                    84,93,102     www.rickeystokesnews.com 16 17        * * * * * 18 19 20 21 22 23</p>	<p style="text-align: center;">Page 4</p> <p>1        MS. NELSON: On the Record, I'd like to 2        say that this witness would like to 3        read and sign his deposition. 4        IVAN KEITH GRAY 5        The witness, having first been duly sworn 6        to speak the truth, the whole truth and nothing but 7        the truth, testified as follows: 8        EXAMINATION 9        BY MR. JAFFREE: 10        Q. Could you state your name for the Record? 11        A. Ivan Keith Gray. 12        Q. I understand that you want to exercise the 13        right that's given to you by the rules to read 14        and sign the deposition before it becomes an 15        official document? 16        A. Yes, sir. 17        Q. I understand that concern, and I've expressed 18        to counsel for the defendants my concern that 19        your deposition be available for use for a 20        dispositive motion that has a November 16th 21        deadline. 22        I will try to ask the court reporter to 23        expedite this and try to get it to you as soon</p>

1. (Pages 1 to 4)

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<p style="text-align: right;">Page 5</p> <p>1 as practical. And, hopefully, I will have it 2 back in time for you to sign it and for the 3 court reporter to certify it and for me to use 4 those portions that are necessary in order to 5 support any partial summary judgment motion I 6 may file.</p> <p>7 If not, I am, on the Record, reserving the 8 right to submit the unverified portion with 9 leave to correct any errors subsequently. And 10 so to that extent, I'm asking the court 11 reporter to give me a copy of the unverified 12 deposition pretty much at the same time that 13 she provides you with a copy of the original 14 or at least the tentative original for your 15 review.</p> <p>16 Now, having said that, let me ask you: 17 Have you sat for a deposition before?</p> <p>18 A. Yes, sir.</p> <p>19 Q. How frequently?</p> <p>20 A. Maybe --</p> <p>21 MS. NELSON: You mean how many times?</p> <p>22 I'm sorry. Go ahead.</p> <p>23 Q. Well, how many times then?</p>	<p style="text-align: right;">Page 7</p> <p>1 A. I'm assuming that I was the City's witness. I 2 just received notice to appear for a 3 deposition, and I was there. So I'm assuming 4 that the City was the one that asked me to 5 come to that. Now, I'm not 100 percent sure 6 if it wasn't the defendant -- or which would 7 have been the plaintiff. Excuse me.</p> <p>8 MS. NELSON: You need to speak up because 9 she's got to hear what you're saying 10 to take it down.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. And do you recall whether prior to your 13 sitting for that deposition, somebody prepared 14 you for that deposition?</p> <p>15 A. I don't remember that.</p> <p>16 Q. Have you been prepared for this deposition?</p> <p>17 MS. NELSON: Again -- go ahead. You can 18 answer.</p> <p>19 I would object to any discussions 20 that any counsel for the City would 21 have had with him.</p> <p>22 MR. JAFFREE: I'm not sure --</p> <p>23 MS. NELSON: He is a lieutenant and he</p>
<p style="text-align: right;">Page 6</p> <p>1 A. Maybe twice.</p> <p>2 Q. Do you recall those times that you sat for a 3 deposition?</p> <p>4 A. On one of them I do.</p> <p>5 Q. And what was that; what was the issue?</p> <p>6 A. It was a case where a defendant was suing the 7 City of Dothan. I believe the defendant's 8 name was Stovall, and it had to with a officer 9 -- another office arresting him in this 10 building at the Civic Center.</p> <p>11 Q. And the deposition took place in this 12 building?</p> <p>13 A. No. The issue about the officers arresting 14 Mr. Stovall was in the Civic Center.</p> <p>15 Q. I see.</p> <p>16 A. It occurred here.</p> <p>17 Q. And you were called as a deponent on behalf of 18 whom?</p> <p>19 A. The City.</p> <p>20 Q. So you became the City's witness?</p> <p>21 MS. NELSON: Object to the form.</p> <p>22 And when I say that, just ignore 23 me. Go ahead and answer.</p>	<p style="text-align: right;">Page 8</p> <p>1 is --</p> <p>2 MR. JAFFREE: -- technically that you're 3 representing him. Just not quite sure 4 of that.</p> <p>5 MS. NELSON: He is a lieutenant with the 6 City of Dothan and, therefore, is part 7 of the City.</p> <p>8 MR. JAFFREE: I'm not going to ask what 9 you talked to him about, what strategy 10 sessions you two had. I'm still not 11 quite sure you technically represent 12 everybody that is employed in some 13 capacity with the City of Dothan 14 because you represent the City in a 15 single, narrowly focused litigation.</p> <p>16 Q. But be that as it may, do you remember any of 17 the facts and circumstances surrounding the 18 second deposition that you sat for?</p> <p>19 A. The one that I have mentioned would have been 20 the second one, and I'm just assuming -- I 21 don't remember any details or facts for the 22 first one. That's not -- that is an 23 approximate number. I've been employed with</p>

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1 the City almost 23 years. So I remember one 2 specifically. And I may have sat for another 3 one prior, but I'm not 100 percent sure.	1 answer if you understand and know. 2 A. It's a department of the City of Dothan.
4 <b>Q. Well, your response dovetails nicely into my</b> 5 <b>next question: When did you first become</b> 6 <b>employed with the City of Dothan?</b>	3 <b>Q. Okay. Is it connected to any other department</b> 4 <b>with the City of Dothan as far as you know?</b>
7 A. In 1985.	5 MS. NELSON: Object to the form.
8 <b>Q. In what capacity?</b>	6 A. Not that I know of.
9 A. I was a jail security officer.	7 <b>Q. So it's an independent, separate department of</b> 8 <b>the City of Dothan?</b>
10 <b>Q. Was that in the old jail; did they have an old</b> 11 <b>jail?</b>	9 A. To my knowledge.
12 A. Yes, sir.	10 <b>Q. Are you aware of the organizational structure</b> 11 <b>of the police department? And when I</b> 12 <b>say "police department," I'm always referring</b> 13 <b>to the City of Dothan Police Department.</b>
13 <b>Q. I think I know, but what is a jail security</b> 14 <b>officer?</b>	14 A. Yes, sir.
15 A. More people would commonly be -- think of it 16 as a corrections officer. We actually 17 in-process prisoners as they come to the jail 18 facility, care to their needs and -- and 19 upkeep, book, fingerprint, process.	15 <b>Q. What is that organizational structure?</b>
20 <b>Q. Did you have to take any training for that?</b>	16 A. The police chief is the department head.
21 A. No, sir, not at the time.	17 There is a major that -- that's up under him.
22 <b>Q. So you didn't have to go to any kind of</b> 23 <b>academy to become that?</b>	18 There is presently one captain and one acting 19 captain. And one of those captains is over 20 the records division.
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1 A. No, sir.	1 operations division.
2 <b>Q. So you weren't really with the police force at</b> 3 <b>that time?</b>	2 <b>Q. Thank you. You have some more under the</b> 3 <b>structure?</b>
4 A. I wasn't a sworn officer.	4 A. Yes. There are several different branches 5 that come down from there. There's --
5 <b>Q. But you were classified as an officer?</b>	6 <b>Q. How many branches?</b>
6 A. I was a jail -- I was not a police officer in 7 that capacity. I was actually a jail security 8 officer, which is an unsworn member of the 9 police department.	7 A. Oh --
10 <b>Q. And how long did you serve in the capacity of</b> 11 <b>jail security officer?</b>	8 <b>Q. Is there that many?</b>
12 A. Approximately six months.	9 A. Yes.
13 <b>Q. And what happened after that?</b>	10 <b>Q. More than ten?</b>
14 A. I made application to become a police officer 15 and was hired as a police officer.	11 A. Close to if not more than. You have the 12 acting captain which is over five divisions of 13 patrol. God, there's -- I don't know 14 which -- I believe Captain Parrish is over all 15 administration that would include records. It 16 would include the clerks, the 17 secretary -- administrative secretaries, the 18 -- the --
16 <b>Q. Now, that's for the City of Dothan we're</b> 17 <b>talking about, right?</b>	19 MS. NELSON: Just the best you can 20 remember.
18 A. Yes, sir.	21 A. There is just so many branches. Unless I see 22 an organizational chart, I can give you 23 just -- we have a criminal investigations
19 <b>Q. Is the police department a separate agency or</b> 20 <b>a unit of the government? How is the police</b> 21 <b>force in the City of Dothan characterized?</b>	
22 <b>What is it; is it a department or what?</b>	
23 MS. NELSON: Object to the form. You can	

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<p>1 division, a juvenile division, and there's two  2 lieutenants that's over those divisions. We  3 have a docket division that has an  4 administrative assistant. We have police  5 communications that come from there. We have  6 police animal shelter or the animal shelter  7 which is up under the umbrella of the police  8 department. We have the radio maintenance  9 shop which is up under the umbrella of the  10 police department. There's training  11 division. There is school resources which  12 comes up under juvenile division. We've got  13 school crossing guards that's -- that's in  14 there.</p> <p>15 But right off the top of my head, just  16 thinking right now, we have -- there's an  17 internal affairs division which answers up  18 under -- directly to the police chief.</p> <p>19 <b>Q. So it is directly connected to the police  20 chief?</b></p> <p>21 A. Yes.</p> <p>22 <b>Q. It bypasses the major and the two captains?</b></p> <p>23 A. Unless -- our major has only had that position</p>	<p>1 A. No.</p> <p>2 <b>Q. I'm ignorant as to the ranks of police  3 officers. I'm ignorant to the ranks of the  4 military because I managed to escape as 1D,  5 1F, something. I was a one something.</b></p> <p>6 <b>But anyway, be that as it may -- maybe I  7 should notice -- but I guess you start off as  8 a private or something?</b></p> <p>9 A. No. You're just an officer.</p> <p>10 <b>Q. And the next rank is what?</b></p> <p>11 A. A corporal.</p> <p>12 <b>Q. Is an officer the same thing as a private  13 would be in the --</b></p> <p>14 A. Yes, sir.</p> <p>15 <b>Q. -- military?</b></p> <p>16 A. We -- it -- it isn't distinguished by that  17 but, yes, sir. Private is usually starting at  18 the bottom and then officer would be just --</p> <p>19 <b>Q. So I'm assuming you started as just an  20 officer?</b></p> <p>21 A. Yes, sir.</p> <p>22 <b>Q. And a gentleman?</b></p> <p>23 A. Yes, sir. Thank you.</p>
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<p>1 for approximately a year. And unless they  2 have been somehow connected, I believe the IA  3 is still coming directly from the chief.</p> <p>4 <b>Q. Okay. Let me get to the internal affairs  5 division. I would say that's the primary  6 purpose of your deposition.</b></p> <p>7 <b>So after six months, thereabouts, you  8 became a police officer. You took whatever  9 tests necessary?</b></p> <p>10 A. Yes, sir.</p> <p>11 <b>Q. And then took whatever training was necessary?</b></p> <p>12 A. Yes, sir.</p> <p>13 <b>Q. Went to the academy and -- is that the one  14 that's here in Dothan?</b></p> <p>15 A. No, sir. In Selma, Alabama.</p> <p>16 <b>Q. I'm thinking about Mobile. I've got to  17 remember what city I'm in, Dothan.</b></p> <p>18 <b>The academy is in Selma for training for  19 the Dothan police officers?</b></p> <p>20 A. The one that I attended, yes, sir.</p> <p>21 <b>Q. And so you matriculated through that and  22 became a police chief (sic). Did you have any  23 rank at the time?</b></p>	<p>1 <b>Q. So you remained an officer until when?</b></p> <p>2 A. I'm thinking around 1990. No, that's  3 incorrect. I made the rank of corporal -- I  4 can't remember. I believe it was in the late  5 80s, but I'm not 100 percent sure.</p> <p>6 <b>Q. Okay. And how long did you remain a corporal?</b></p> <p>7 A. Not that long. I'm -- then again I'm not  8 certain, but I'm going to have to guess, maybe  9 a few years. Then I was promoted to  10 sergeant. I believe that was in 1990, but I'm  11 not 100 percent on that.</p> <p>12 <b>Q. Would it be correct to characterize you as on  13 the fast track? Or maybe everybody goes at  14 that speed.</b></p> <p>15 A. No, sir. Up until -- I stayed a sergeant for  16 a long time. And I was just recently promoted  17 to lieutenant approximately a year ago --  18 little bit over a year ago. Matter of fact,  19 it was a year last month.</p> <p>20 <b>Q. Maybe you were on the fast track until you got  21 to sergeant?</b></p> <p>22 A. That's a total, different story. I'll tell  23 you about that one day.</p>

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<p>1   <b>Q. Now, when you was promoted to sergeant, were</b>  2    <b>you in some particular division, or did you</b>  3    <b>float around from division to division?</b></p> <p>4    A. I think I was --</p> <p>5        MS. NELSON: Object to form. Go ahead.</p> <p>6        MR. JAFFREE: You don't like the term</p> <p>7        "float?"</p> <p>8        MS. NELSON: I don't but go ahead.</p> <p>9    A. I was just -- I was in patrol division until I</p> <p>10    made the rank of sergeant.</p> <p>11   <b>Q. And once you made that rank, what division</b>  12   <b>were you in?</b></p> <p>13   A. Back then, the first line of being a</p> <p>14    supervisor, you went back to the docket</p> <p>15    detention which is the jail. So I was the</p> <p>16    supervisor over one of the shifts in the jail</p> <p>17    as a sergeant for about a year.</p> <p>18   <b>Q. And then after that?</b></p> <p>19   A. I was transferred to the narcotics --</p> <p>20    narcotics division where I worked there</p> <p>21    about -- I'm going to guess about a year, year</p> <p>22    and a half.</p> <p>23   <b>Q. Okay. And then after that?</b></p>	<p>1        MR. JAFFREE: You're not in control over</p> <p>2        this officer. But fine.</p> <p>3        MS. NELSON: I just don't understand your</p> <p>4        question. I'm not going to ask -- if</p> <p>5        he doesn't understand, he needs to let</p> <p>6        you --</p> <p>7    A. Objective analysis --</p> <p>8        MS. NELSON: Just ask him -- maybe ask him</p> <p>9        what he was trained to do.</p> <p>10      MR. JAFFREE: Let me -- I appreciate your</p> <p>11      offer to help, but let me try to make</p> <p>12      it a bit -- by the way, are we doing</p> <p>13      the same thing again, talking --</p> <p>14   <b>Q. When you started criminal investigation and</b>  15   <b>went to these trainings, were you trained just</b>  16   <b>to look at the facts objectively, you know,</b>  17   <b>like Sergeant Friday, "Just the facts,</b>  18   <b>ma'am?" Were you trained in that manner?</b></p> <p>19      MS. NELSON: Object to the form. I don't</p> <p>20      know if he knows how Sergeant Friday</p> <p>21      was trained, but to the extent you</p> <p>22      understand him, you can answer.</p> <p>23      MR. JAFFREE: I wasn't talking about how</p>
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<p>1    A. I went back to the jail I believe -- I believe</p> <p>2    this is right -- for a year. Then I went to</p> <p>3    criminal investigations after that.</p> <p>4   <b>Q. Did you take any special training once you</b>  5   <b>went to the -- is that a criminal</b>  6   <b>investigations division?</b></p> <p>7   A. Not at the very onset. It was just on-the-job</p> <p>8    training with seasoned investigators. And as</p> <p>9    you're going through your career there, they</p> <p>10    have different schools that they send you to</p> <p>11    that you can attend for either specialized</p> <p>12    training or --</p> <p>13   <b>Q. Do you recall whether or not these schools had</b>  14   <b>an emphasis on objective factual analysis or</b>  15   <b>emphasis on making a case?</b></p> <p>16      MS. NELSON: Object to the form. I have</p> <p>17      no idea what you're talking about.</p> <p>18      THE WITNESS: I don't either.</p> <p>19   A. I can assume what you're saying, but if he --</p> <p>20      MS. NELSON: I would ask you not to assume</p> <p>21      anything.</p> <p>22      THE WITNESS: Okay.</p> <p>23   A. Well, if you could explain a little bit more.</p>	<p>1        he was trained. I was talking about,</p> <p>2        he always tells people, "Just the</p> <p>3        facts, ma'am."</p> <p>4    A. My training to be a criminal investigator, as</p> <p>5        I said, was from experienced investigators.</p> <p>6        So I did not -- I want to make sure you</p> <p>7        understand. I did not attend a school for</p> <p>8        that.</p> <p>9        The individual schools that I would have</p> <p>10        attended during that tenure would be like</p> <p>11        photography, how to take statements. I went</p> <p>12        to a forensic hypnosis school. I went to a</p> <p>13        polygraph school.</p> <p>14        So as far as a structured setting that</p> <p>15        says, this is how you do an investigation,</p> <p>16        being objective from -- and whatever, that</p> <p>17        never came in as a point of being taught.</p> <p>18        It's just what you learned as a police officer</p> <p>19        in being objective and the looking at facts</p> <p>20        and basing everything off of the totality of</p> <p>21        the circumstances and things of that nature.</p> <p>22        I hope I answered your question.</p> <p>23   <b>Q. Yeah. So let's get to this police officer</b></p>

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<p style="text-align: center;">Page 21</p> <p>1      <b>that trained you. Do you remember who it was</b>  2      <b>that you first got trained by?</b></p> <p>3      MS. NELSON: Again, I object to the form.  4      I'm not sure he said it was one police  5      officer. I think he said seasoned  6      officers or something of that nature.</p> <p>7      A. Seasoned investigators.</p> <p>8      <b>Q. Well, so more than one seasoned investigator</b>  9      <b>when you first started?</b></p> <p>10     A. Oh, yes. I believe one of our -- one of the  11     guys that helped me out that I think was my  12     first training -- I can't call him a training  13     officer, but the first seasoned investigator  14     that I was put with, I believe, is -- I  15     believe. I'm not 100 percent sure, but it was  16     Robert Sorrells.</p> <p>17     <b>Q. And you probably told me this and I didn't</b>  18     <b>write it. What year was this that you started</b>  19     <b>working as a criminal investigator, if you</b>  20     <b>recall?</b></p> <p>21     A. I'm going to guess around 1993, 1994,  22     somewhere in there. But that's just guessing.</p> <p>23     <b>Q. Now, from your experience when you first</b></p>	<p style="text-align: center;">Page 23</p> <p>1      <b>investigation unit in 2001, were you?</b></p> <p>2      A. No. I started in internal affairs -- I think  3      it was in 1999. And before I went to internal  4      affairs, I was in criminal investigations.</p> <p>5      <b>Q. What is internal affairs?</b></p> <p>6      A. It's an administrative portion of part of the  7      police department -- division of the police  8      department that deals with allegations -- or  9      they investigate allegations of police  10     misconduct. They also work with applicant  11     screening, applicant backgrounds for the  12     department.</p> <p>13     <b>Q. What department?</b></p> <p>14     A. For the police department.  15     And conducts investigations at the  16     pleasure of the police chief -- at the  17     direction of the police chief.</p> <p>18     <b>Q. Is there, as far as you know, any statute or</b>  19     <b>regulation that set up the internal affairs</b>  20     <b>department for the City of Dothan?</b></p> <p>21     A. What do you mean by "statute?"</p> <p>22     <b>Q. Or any kind of code or law that brought it</b>  23     <b>into existence.</b></p>
<p style="text-align: center;">Page 22</p> <p>1      <b>started working with these seasoned criminal</b>  2      <b>investigators, do you know if they approached</b>  3      <b>each investigation with a point of view?</b></p> <p>4      A. That I don't know.</p> <p>5      <b>Q. Do you know what I'm referring to?</b></p> <p>6      A. If they're looking at a specific investigation  7      in one particular way, is what I interpret  8      that you're saying.</p> <p>9      <b>Q. Well, that's part of it, and maybe they are</b>  10     <b>trying to make facts fit a hypothesis.</b></p> <p>11     MS. NELSON: Object to the form, if that's  12     a question.</p> <p>13     MR. JAFFREE: Well, that's my  14     explanation.</p> <p>15     <b>Q. Do you know what I'm talking about, making the</b>  16     <b>facts fit a hypothesis?</b></p> <p>17     A. I know what you're saying. I can't say that  18     they have. No, I can't say that that's the  19     way they did it.</p> <p>20     <b>Q. So how long did you remain in the criminal</b>  21     <b>investigation unit?</b></p> <p>22     A. Approximately eight to ten years.</p> <p>23     <b>Q. Well, you weren't in the criminal</b></p>	<p style="text-align: center;">Page 24</p> <p>1      MS. NELSON: If you know.</p> <p>2      A. I don't know.</p> <p>3      <b>Q. But was there a handbook given to you when you</b>  4      <b>became a member of the internal affairs</b>  5      <b>division that spoke either specifically or in</b>  6      <b>a vague way of a charter of the division?</b></p> <p>7      A. No, sir.</p> <p>8      <b>Q. Do you know how many different departments</b>  9      <b>there are associated with the City of Dothan?</b></p> <p>10     A. No, sir, not specifically.</p> <p>11     <b>Q. Is there a maintenance department as far as</b>  12     <b>you know? It's not called maintenance. Maybe</b>  13     <b>you call them environmental services</b>  14     <b>department.</b></p> <p>15     A. There's an environmental services department,  16     but I've heard of a maintenance department.</p> <p>17     <b>Q. I'm dating my age. They use politically</b>  18     <b>correct words now.</b></p> <p>19     I guess they have a fire department for  20     the city?</p> <p>21     A. Yes, sir.</p> <p>22     <b>Q. Health department maybe for the City?</b></p> <p>23     A. I don't know if the employee health clinic is</p>

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Page 25	Page 27
1 a department. 2 <b>Q. But is it a unit of the City government?</b> 3 MS. NELSON: He said he didn't know. 4 MR. JAFFREE: Well, he didn't know if it 5 was a department, but maybe he knows 6 what it's characterized as. 7 MS. NELSON: Object to the form. 8 A. I know that the employees with the employee 9 heath clinic are employed by the City of 10 Dothan. I don't know the status. I don't 11 know if it's a department. I don't know if 12 they have a department head. I don't know. 13 <b>Q. Well, let me jump further into the chase.</b> 14 <b>Now, have you ever done an internal affairs</b> 15 <b>investigation for the environmental service</b> 16 <b>department for the City of Dothan for one of</b> 17 <b>their employees?</b> 18 A. Not that I can recall. 19 <b>Q. What about the fire department for the City?</b> 20 A. Yes. 21 <b>Q. You did? You investigated one of the</b> 22 <b>employees in the fire department?</b> 23 A. It wasn't just one employee, I don't believe.	1 <b>department?</b> 2 A. Would you say that again? 3 <b>Q. Has internal affairs division conducted</b> 4 <b>investigations of any other city departments,</b> 5 <b>excluding the police department and the</b> 6 <b>magistrate or the judicial department?</b> 7 A. That I was a party to? 8 <b>Q. Or that you are aware of.</b> 9 MS. NELSON: And besides the fire 10 department, besides what he's already 11 testified to. 12 A. Right. I'm not 100 percent certain. But they 13 could -- there was an investigation dealing 14 with the Dothan Utilities where there was a 15 theft of some money I believe. And as I said, 16 I'm not certain if it was the internal affairs 17 or the criminal investigations division that 18 investigated that. 19 <b>Q. So they may have done -- I'm sorry. What</b> 20 <b>department was that?</b> 21 A. Utilities. 22 <b>Q. So there may have been one with utilities, but</b> 23 <b>you're not positive?</b>
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1 <b>Q. A number of employees?</b> 2 A. The investigation -- 3 MS. NELSON: Best you can, if you can 4 answer. 5 THE WITNESS: Yeah, I know. 6 A. It wasn't -- the investigation wasn't directed 7 as an -- at an employee. It was directed 8 at -- at a possibility of misconduct as it 9 relates to that department. So it wasn't an 10 employee. 11 <b>Q. The misconduct that the investigation was</b> 12 <b>directed towards, did it have a criminal</b> 13 <b>element?</b> 14 A. No. 15 <b>Q. Misconduct that didn't relate to any crime but</b> 16 <b>concerned a department?</b> 17 A. Correct. 18 <b>Q. Okay. Have y'all -- let's leave aside for a</b> 19 <b>minute the judicial department. Have y'all --</b> 20 <b>when I say "y'all," I'm talking about internal</b> 21 <b>affairs -- conducted internal affairs</b> 22 <b>investigations of any other departments of the</b> 23 <b>City of Dothan, other than the police</b>	1 A. Right. 2 <b>Q. But if there was, you think it involved some</b> 3 <b>type of criminal activity, theft activity?</b> 4 A. Correct. 5 <b>Q. Were you involved in a investigation with --</b> 6 <b>on a personal level with the fire department?</b> 7 <b>I think you said you were, but I want to be</b> 8 <b>clear on that. Were you personally involved?</b> 9 A. Yes. 10 <b>Q. Do you have any idea pursuant to what</b> 11 <b>authority police internal affairs investigated</b> 12 <b>the fire department for a non-criminal</b> 13 <b>activity?</b> 14 A. My police chief assigned that investigation to 15 me and Corporal Frank Reeves, so that's pretty 16 much the authority that I followed. 17 <b>Q. So the authority -- whatever the police chief</b> 18 <b>decides to assign you, that's the authority?</b> 19 A. That's -- that's the -- whose -- under whose 20 authority I investigated that case. 21 <b>Q. Did you give the people that you investigated</b> 22 <b>at the fire department the garrity notice?</b> 23 A. I don't remember. I didn't review that case

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1 before coming here. 2 <b>Q. Well, do you think you would have? Is that</b> 3 <b>standard operating procedure?</b> 4 A. It is. That was early on in internal 5 affairs. I'm not sure if that was before I 6 went to the internal affairs school or not. 7 So I don't remember. 8 <b>Q. So y'all might not have been given that notice?</b> 9 MS. NELSON: Object to form. 10 A. I don't remember. 11 MS. NELSON: He said he didn't remember. 12 A. I don't remember. 13 MR. JAFFREE: Well, I'm just clarifying 14 what's he saying. It sounds like 15 y'all may not have been given the 16 notice at that time. 17 MS. NELSON: Again, I think the Record 18 will speak to what his answer is. 19 A. I don't remember. 20 MR. JAFFREE: Well, I guess if that was 21 the case, then the Record would have 22 taken the place of your comment. 23 <b>Q. But be that as it may, do you know from any</b>	1 <b>business to investigate the employees for</b> 2 <b>administrative misconduct?</b> 3 A. No. 4 MS. NELSON: Object to the form. 5 <b>Q. But do you understand what I mean by</b> 6 <b>"administrative misconduct?"</b> 7 MS. NELSON: Object to the form. I don't. 8 MR. JAFFREE: Okay. 9 MS. NELSON: Are you talking about a 10 business that has no association with 11 the City? 12 MR. JAFFREE: I'm talking about a business 13 having no association with the City. 14 <b>Q. Like, for instance, McDonald's. McDonald's</b> 15 <b>thinks their employee was goofing off and not</b> 16 <b>putting in eight-hours work for eight-hours</b> 17 <b>pay.</b> 18 <b>Is that something you think that internal</b> 19 <b>affairs would investigate?</b> 20 MS. NELSON: Object to the form. 21 A. No. 22 <b>Q. You don't think that's part of your charter?</b> 23 MS. NELSON: Object to what he thinks.
1 <b>document that you have ever read that</b> 2 <b>authorizes internal affairs -- the Dothan</b> 3 <b>Internal Affairs Division to investigate</b> 4 <b>non-criminal matters involving civilians?</b> 5 A. For clarity, what are you calling a civilian? 6 <b>Q. A non-police officer or somebody that's not</b> 7 <b>associated with the police division.</b> 8 A. Okay. So anyone outside of the umbrella of 9 the police department you're calling just a 10 citizen, not necessarily that they're a City 11 employee? 12 <b>Q. Well, first -- yeah, let's make it that</b> 13 <b>broad. Anybody. Don't have to be a City</b> 14 <b>employee, just outside the umbrella of the</b> 15 <b>police department.</b> 16 A. The internal affairs division has done 17 investigations which include; by your 18 definition, citizens as witnesses; subjects of 19 complaints of -- because they complain on 20 police officers. So citizens complaining on 21 police officers. So, yes, we have. 22 <b>Q. As far as you know, have y'all done an internal</b> 23 <b>affairs investigation of a privately owned</b>	1 But -- 2 <b>Q. If the chief assigned you to investigate it,</b> 3 <b>you would perhaps do it?</b> 4 A. I'd do exactly what my boss said do. 5 <b>Q. You know which side your bread is buttered on,</b> 6 <b>huh?</b> 7 MS. NELSON: Object to the form. 8 MR. JAFFREE: I'm putting some levity in 9 here so I can stay awake. 10 <b>Q. Do you know, from your own experience, how</b> 11 <b>many times you have initiated an investigation</b> 12 <b>on behalf of the judicial department?</b> 13 MS. NELSON: Object the form. What do you 14 be mean, "on behalf of?" 15 MR. JAFFREE: Well, let me limit my 16 question. 17 MS. NELSON: Involving? 18 MR. JAFFREE: Let me limit my question 19 to -- I'm sure counsel is going to 20 object no sooner than I move my mouth. 21 <b>Q. Let me limit my question. Do you recall how</b> 22 <b>many times you have conducted an investigation</b> 23 <b>where employees of the judicial department was</b>

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<p style="text-align: right;">Page 33</p> <p>1      involved in an investigation? Let me put it 2      more bluntly, the target of an investigation. 3      MS. NELSON: Object to the form. 4      A. I've been involved in two investigations, to 5      my knowledge, as it relates to the City of 6      Dothan Judicial Department. 7      Q. Prior -- 8      A. Clarify. Within the two, there were new 9      issues that came out in one particular, so I'm 10     considering that as one event dealing with 11     that investigation with the judicial 12     department. And then there was a separate 13     one. So two to my knowledge, two different 14     investigations. 15     Q. So one became pregnant and the other one did 16     not? 17     A. Yes, sir. 18     Q. And you investigated the baby as well? 19     MS. NELSON: Object to the form. 20     MR. JAFFREE: What was wrong with that 21     form? 22     Q. Let me go back again. Do you recall ever 23     being involved in an internal affairs</p>	<p style="text-align: right;">Page 35</p> <p>1      you have any knowledge of anyone, other than 2      yourself, conducting an investigation of an 3      employee of the judicial department prior to 4      Judge Gordon becoming a municipal judge? 5      MS. NELSON: I'm going to state an 6      objection. There was no judicial 7      department before Judge Gordon came to 8      the City. 9      MR. JAFFREE: Well, I guess his response 10     would be, no. 11     MS. NELSON: Well, I'm just making that 12     point, but he can answer as he -- 13     MR. JAFFREE: And then you can indicate 14     that my question was too limited. 15     A. I don't have any knowledge of that. 16     Q. All right. Let me -- counsel is always being 17     helpful. 18     So do you have any knowledge of anybody 19     being involved in an internal affairs 20     investigation of any city magistrate prior to 21     Judge Gordon becoming municipal judge, any 22     city magistrate, whether or not they were 23     called city magistrates or city clerks?</p>
<p style="text-align: right;">Page 34</p> <p>1      investigation of any employee of the judicial 2      department prior to the installation of Judge 3      Gordon? 4      MS. NELSON: Prior to the installation? 5      MR. JAFFREE: That's the term for her 6      getting her position. 7      MS. NELSON: Okay. 8      A. No, sir, I don't believe I did. 9      MR. JAFFREE: Somehow, I think you don't 10     like my vocabulary. 11     MS. NELSON: Well, I'm just trying to make 12     sure I understand what you were 13     saying. I think -- just for the 14     Record, I think perhaps he went into 15     internal affairs about the time Judge 16     Gordon went on the bench. 17     MR. JAFFREE: Perhaps slightly ahead of 18     her, perhaps not. But, thanks, you 19     helped me with another question. 20     Q. Did you have any knowledge of anyone employed 21     by internal affairs conducting an 22     investigation? Knowledge. Now, I don't care 23     if it's hearsay knowledge for my purposes. Do</p>	<p style="text-align: right;">Page 36</p> <p>1      I don't know what that place was called if 2      it wasn't judicial. I mean, it just may have 3      been called clerk division, whatever, or 4      whatever. 5      MS. NELSON: Object to the form, 6      statement, but you can answer to the 7      extent you know. 8      MR. JAFFREE: If you want to give me some 9      help, do you know what it was called? 10     You probably do. 11     MS. NELSON: I'm not here to testify. 12     MR. JAFFREE: It's probably here in some 13     of this junk I've got. 14     A. I don't have any knowledge of any prior 15     internal affairs investigator investigating 16     any municipal court magistrate. 17     Q. Okay. Now, in 1991 were you involved in an 18     investigation of any magistrate with the 19     judicial department of the City of Dothan? 20     A. No, sir. 21     Q. I'm sorry. What year did I say? 22     A. No, sir. Mr. Gray. 23     Q. If I said 1991, I'm sorry.</p>

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<p style="text-align: right;">Page 37</p> <p>1 A. You did.</p> <p>2 Q. And I'm going to get stuck with these wrong 3 words coming out of my mouth.</p> <p>4 So let's make that 2001. In 2001, were 5 you involved in an investigation of any 6 magistrate employed with the judicial 7 department of the City of Dothan?</p> <p>8 A. Yes, sir.</p> <p>9 MR. JAFFREE: I've got to remember the 10 deponent is clever and intelligent, 11 and I don't need to be half focused 12 today. I just don't.</p> <p>13 Q. But do you recall upon whose request you were 14 involved in that investigation?</p> <p>15 MS. NELSON: Can we clarify the 16 investigation and --</p> <p>17 Q. Was there more than one investigation you was 18 involved in, in 2001?</p> <p>19 A. Well, there's a lot of investigations here 20 that you're going to depose me on I guess. 21 So --</p> <p>22 Q. Were there a lot of them that existed in 2001?</p> <p>23 A. It depends on what you mean "a lot of." But</p>	<p style="text-align: right;">Page 39</p> <p>1 A. Yes, if you have that --</p> <p>2 Q. But if you remember on your own 3 independently.</p> <p>4 A. If you have that, it was either -- either one 5 of two people, but if you can provide the 6 document --</p> <p>7 Q. Who do you think would be the two people?</p> <p>8 A. Either it was Chief White or either Captain 9 Parrish. But --</p> <p>10 Q. It could have been a third person?</p> <p>11 MS. NELSON: I'll show him my document, 12 but if you have a certain one you want 13 to show him.</p> <p>14 Q. Well, let me --</p> <p>15 A. It was Chief White.</p> <p>16 Q. I don't think so. I believe it was -- Chief 17 White is not the person I had in mind.</p> <p>18 MS. NELSON: Well, you're asking the 19 witness who is under oath who is 20 sitting here looking at this memo from 21 Chief White to him, directing the 22 investigation.</p> <p>23 Q. This is a transcript of a statement of Mary</p>
<p style="text-align: right;">Page 38</p> <p>1 there are several investigations every year, 2 dealing with internal affairs.</p> <p>3 Q. Well, I'm talking about involving an 4 employee -- a magistrate employee of the 5 judicial department of the City of Dothan?</p> <p>6 A. I don't think there was a lot of them in 2001.</p> <p>7 Q. Well, how many do you recall you've been 8 involved in, in 2001 involving a magistrate of 9 the judicial department?</p> <p>10 A. I believe you're referring to the Kimberly 11 Ralpeje case.</p> <p>12 Q. Yeah, that one. Let's settle upon that one.</p> <p>13 A. Yes, sir, I was involved in that.</p> <p>14 Q. Do you recall upon whose request you was 15 involved in that investigation?</p> <p>16 MS. NELSON: And, again, I would state for 17 the Record, if he can -- to the extent 18 that he can remember. But if he needs 19 to look at documents, I would ask you 20 to put the documents before him.</p> <p>21 Q. If you can, I will provide you with some 22 assistance. I could let you read your own 23 words, if you'd like.</p>	<p style="text-align: right;">Page 40</p> <p>1 Brackin that was done in 2001, and the 2 relevant part of the statement can be found on 3 page three.</p> <p>4 Do you have it in front of you?</p> <p>5 A. Captain Monday was the bureau commander which 6 he was over internal affairs as well. So 7 it --</p> <p>8 Q. Well, that's not who I had in mind either.</p> <p>9 A. But you ask if there was any other third 10 person. Chief White. It would have come from 11 either Chief White, Captain Monday, or 12 possibly Captain Parrish.</p> <p>13 Q. That's unfair. I probably didn't ask the 14 question correctly. And I think your response 15 is correct as far as it goes, based on the way 16 I asked the question.</p> <p>17 But let me show you --</p> <p>18 MR. JAFFREE: Let me mark this. I guess 19 I -- I don't have another copy so 20 maybe I can get this back between 21 today and tomorrow morning.</p> <p>22 MS. NELSON: Could you show me what you're 23 about to ask him. I'm not sure I have</p>

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1        the Bates stamp on here. 2        MR. JAFFREE: The Bates stamp is 1278. 3        MS. NELSON: You're at Mary Beth Brackin's 4                    testimony. 5        MR. JAFFREE: Uh-huh (positive response). 6                    (Plaintiff's Exhibit 14 was marked 7                    for identification.) 8        Q. Look at the bottom of what has been marked as 9                    Plaintiffs' Exhibit Number 14. 10      A. Yes, sir. 11      Q. Now, I have highlighted that. The highlight 12                    was not on the original, but I highlighted it 13                    for my own purposes. And I don't want to 14                    imply that it was given to me that way by the 15                    City's counsel. 16      MR. JAFFREE: If I could have found more 17                    time, I would have made copies of 18                    this, but I'm just having trouble 19                    finding time in my day. 20      Q. If you look at Exhibit 14, it does appear that 21                    Judge Gordon is the one that called for this 22                    investigation; is that correct? 23      MS. NELSON: Object to the form.	1        Q. Who told you that? 2                    MS. NELSON: If you know. 3                    A. I'm -- it had to have been from the chief. 4        Q. Okay. Now, I know it's going back a long 5                    time. 6                    A. That it is. 7        Q. However, can I assume that one of the 8                    hallmarks of a good investigator is a good 9                    memory? 10       MS. NELSON: Object to the form as to any 11                    assumption. 12       Q. Is that a presumption? 13       MS. NELSON: Object to the form. 14       Q. Or is that a standard presumption that has 15                    some merit? 16       MS. NELSON: Object to the form. 17       A. Well, I guess with anything, it would come 18                    with the passage of time. So in order to 19                    refresh and reflect over things over the 20                    passage of time, there could be a lot more 21                    memory recall to answer your question. 22       Q. Well, even though for the Record I do not 23                    acknowledge the City's counsel as functioning
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1        A. If I remember correctly, your question is who 2                    assigned me to the investigation. And Judge 3                    Gordon did not assign me to the investigation. 4        Q. Okay. But it says that she initiated the 5                    investigation; is that correct? 6        MS. NELSON: Object to the form. The 7                    testimony will speak for itself. 8        MR. JAFFREE: Well, I'm asking for the 9                    testimony. 10      A. The judge is not my department head. I get my 11                    orders and directions from my department head 12                    or my supervisors. Judge Gordon did not come 13                    directly to me and ask me to investigate. 14      Q. Can you read what you said there? 15      A. "The judge asked for an investigation from the 16                    chief because he has the investigators that 17                    can actually look into something and has time 18                    to actually look into it." 19      Q. Now, can I assume from your statement that 20                    somebody communicated to you that the judge 21                    had asked the chief to conduct an 22                    investigation? 23      A. Yes.	1        as your counsel, I will not invade whatever 2                    province she had in preparing you. But did 3                    you review any records in preparation for this 4                    deposition? 5        A. Yes. 6        Q. Did you -- 7                    (Brief interruption) 8        MR. JAFFREE: I was just talking about 9                    memory, and mine has gone blank as to 10                    where I was. 11       MS. NELSON: You asked him if he had 12                    reviewed any records. 13       MR. JAFFREE: I'm not an investigator and 14                    I'm getting old in the tooth, long in 15                    the tooth or somewhere. I've got you 16                    by a few years. 17                    Where was I at? 18                    Do you want to read back where I 19                    was at? What was the last thing I 20                    said? 21                    (Court reporter read from the 22                    Record.) 23       Q. Did you review some transcripts of the

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<p style="text-align: right;">Page 45</p> <p>1       <b>testimony that you had gathered during your</b>  2       <b>investigations?</b></p> <p>3       A. Some of them.</p> <p>4       <b>Q. But not necessarily this transcript?</b></p> <p>5       MS. NELSON: This one being --</p> <p>6       <b>Q. The one that you're reviewing now, the</b>  7       <b>transcript of --</b></p> <p>8       MS. NELSON: Your Plaintiffs' Exhibit 14?</p> <p>9       MR. JAFFREE: Yeah.</p> <p>10      MS. NELSON: That page?</p> <p>11      MR. JAFFREE: Yeah, that page.</p> <p>12      A. No, I didn't.</p> <p>13      <b>Q. All right. Do you know pursuant to what</b>  14       <b>authority Judge Gordon may have</b>  15       <b>instructed -- help me with the right word --</b>  16       <b>suggested, encouraged, ordered your chief to</b>  17       <b>appoint you to do this investigation?</b></p> <p>18      A. No.</p> <p>19      <b>Q. Which was the correct word, "suggested,"</b>  20       <b>"ordered?"</b></p> <p>21      MS. NELSON: Object to the form.</p> <p>22      <b>Q. "Instructed?"</b></p> <p>23      MS. NELSON: If he doesn't know -- object</p>	<p style="text-align: right;">Page 47</p> <p>1       <b>Q. Would you feel comfortable in my suggestion</b>  2       <b>that the judge initiated this investigation?</b></p> <p>3       MS. NELSON: Object to the form. I don't</p> <p>4       know if he can feel comfortable with</p> <p>5       you or not.</p> <p>6       A. No, sir.</p> <p>7       MR. JAFFREE: I don't know as from -- if</p> <p>8       he needs to banter with everything</p> <p>9       that you -- he may feel comfortable.</p> <p>10      MS. NELSON: Well, ask him a question, not</p> <p>11       if he will feel comfortable with or --</p> <p>12      MR. JAFFREE: To move this along --</p> <p>13      MS. NELSON: Ask him if he has knowledge.</p> <p>14      <b>Q. Do you know whether or not the judge, based on</b>  15       <b>hearsay or whatever, the judge initiated this</b>  16       <b>investigation?</b></p> <p>17      MS. NELSON: If you know.</p> <p>18      A. No, I don't 100 percent positively know.</p> <p>19      <b>Q. Did you intend from that statement that you</b>  20       <b>just read to be an empty statement, or was it</b>  21       <b>based on facts at the time?</b></p> <p>22      A. Whenever -- and to clarify me saying, no, I</p> <p>23      don't work for the judge. I don't know who</p>
<p style="text-align: right;">Page 46</p> <p>1       to the form.</p> <p>2       MR. JAFFREE: Well, the question --</p> <p>3       MS. NELSON: If you know. That's fine.</p> <p>4       MR. JAFFREE: There's two parts to that</p> <p>5       question. One was, pursuant to what</p> <p>6       authority, and the other part is which</p> <p>7       is the correct verb.</p> <p>8       MS. NELSON: Well, I'm not trying to take</p> <p>9       the deposition. I'm trying to speed</p> <p>10      things along.</p> <p>11      Object to form. If you want to</p> <p>12      ask him if he has any knowledge of how</p> <p>13      the investigation came about, other</p> <p>14      than the chief giving him --</p> <p>15      MR. JAFFREE: Well, no. I want to ask</p> <p>16      him:</p> <p>17      <b>Q. Do you know pursuant to what authority the</b>  18       <b>judge initiated this investigation?</b></p> <p>19      MS. NELSON: Object to the form.</p> <p>20      A. No.</p> <p>21      MS. NELSON: I'm not sure if he testified</p> <p>22       that he knows for certain that the</p> <p>23       judge initiated it.</p>	<p style="text-align: right;">Page 48</p> <p>1       the judge sends. I -- I don't -- I'm not a</p> <p>2       part of her department. So when it came to</p> <p>3       me, it came to me through the chief.</p> <p>4       Now, whatever channels happened between</p> <p>5       the chief and the judge, that's what I'm</p> <p>6       saying that I don't know. How -- how it got</p> <p>7       from the judge to the chief, how she made up</p> <p>8       her mind to do that and all that, I was not a</p> <p>9       party of. How it was assigned to me, I wasn't</p> <p>10      a party of. When I'm told to do an</p> <p>11      investigation by the chief, I do it.</p> <p>12      <b>Q. All right. Let me ask you this: Do you know</b>  13       <b>for a fact -- I'm sorry. Let me back up.</b></p> <p>14      <b>What chief told you to conduct this</b>  15       <b>investigation; what was the name of that</b>  16       <b>chief?</b></p> <p>17      A. John White.</p> <p>18      <b>Q. All right. Do you know what independent facts</b>  19       <b>that Judge White (sic) had concerning the</b>  20       <b>incident that you was investigating prior to</b>  21       <b>your initiating the investigation?</b></p> <p>22      A. No, I don't know the facts that he had. He</p> <p>23      did direct me to talk to the judge about the</p>

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<p>1 investigation. He directed me.</p> <p>2 <b>Q. So you did, at some point, talk to the judge?</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. Did you make a transcript of that discussion?</b></p> <p>5 A. No.</p> <p>6 <b>Q. Why not?</b></p> <p>7 A. I just didn't.</p> <p>8 <b>Q. All right. Do you recall what the judge may have said to you?</b></p> <p>9 A. Yes. That when it had come to her attention that Mary Beth Brackin possibly made statements to a defendant in a criminal case in her court, that her attorney that was representing her was basically incompetent -- and those aren't the words that she used. Those are what I'm paraphrasing.</p> <p>17 <b>Q. Well, don't paraphrase. What were the words she used?</b></p> <p>19 A. I can't -- I don't remember the exact words.</p> <p>20 <b>Q. Oh, okay.</b></p> <p>21 A. Just that there was some possible misconduct from Mary Beth Brackin, insinuating that Ms. Ralpeje may want to seek another attorney</p>	<p>1 MS. NELSON: But he said not necessarily this one.</p> <p>3 MR. JAFFREE: Well, he said not necessarily the transcript.</p> <p>5 MS. NELSON: Well, you didn't ask him about the memo. Anyway, he can --</p> <p>7 MR. JAFFREE: Well, I didn't know his review was limited because I thought that --</p> <p>10 MS. NELSON: Well, you didn't ask him.</p> <p>12 MR. JAFFREE: If he was prepared, he would be reviewing what I may cover.</p> <p>13 MS. NELSON: You know, he can sit here and review it all day if he needs to.</p> <p>15 A. Specifically, that a magistrate which was to be Mary Brackin told Ms. Ralpeje that she should ask for another lawyer because they had many complaints about Shaun, referring to Attorney Shaun McGhee, and the first thing she should do is get rid of Shaun.</p> <p>21 <b>Q. That the first thing who should do is get rid of Shaun?</b></p> <p>23 A. Ms. McGhee -- excuse me. Ms. Ralpeje.</p>
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<p>1 because of her attorney giving her some information that she thought wasn't good.</p> <p>3 <b>Q. So in essence, your investigation was to see if Mary Brackin had bad mouthed another attorney -- I'm sorry -- an attorney, not another attorney, an attorney?</b></p> <p>7 MS. NELSON: Object to the form.</p> <p>8 A. Giving legal advice to a defendant of a case when her job description didn't reflect that that was one of her duties.</p> <p>11 <b>Q. What was the legal advice she had given?</b></p> <p>12 A. Now, you said that's what the allegations were, and that's what I was told to investigate. So --</p> <p>15 <b>Q. But what was the legal advice that she had allegedly gave to Ms. Ralpeje?</b></p> <p>17 A. Just a second.</p> <p>18 MS. NELSON: He's reviewing --</p> <p>19 MR. JAFFREE: Sure.</p> <p>20 MS. NELSON: -- a memo he did like six years ago.</p> <p>22 MR. JAFFREE: But he indicated he had reviewed some of this record.</p>	<p>1 <b>Q. Ms. Ralpeje --</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. -- should get rid of Shaun.</b></p> <p>4 So the judge told you that she had heard that?</p> <p>6 A. The judge advised me that -- that her employee, Ms. Brackin, made -- there were allegations that she made statements to Ms. Ralpeje that Mr. McGhee gave her some -- pretty much bad advice. And that's not -- I'm paraphrasing the words, that the allegations were that Ms. Brackin overstepped her authority as a magistrate by providing -- by telling a defendant in a case that her counsel was inadequate.</p> <p>16 <b>Q. But that constitutes pretty much the bulk of the discussion you had with Judge Gordon?</b></p> <p>18 A. That was the gist of it.</p> <p>19 <b>Q. Can you think of anything else that she may have said at the time?</b></p> <p>21 A. Yes. There were some parties -- there were some other people that may have been a party to that discussion which was a bondsman by the</p>

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<p>1 name -- last name of Turner. Also -- and I  2 don't -- yeah, I believe that was it. There  3 was another party to the -- to that statement,  4 and it was the bondsman by -- by the name of  5 Turner.</p> <p>6 <b>Q. Okay. When you talked to the judge, did you</b>  7 <b>view your role as, "Just the facts, ma'am?"</b></p> <p>8 MS. NELSON: Object to the form.</p> <p>9 A. Can you clarify what you mean?</p> <p>10 <b>Q. That's fair enough.</b></p> <p>11 <b>Did you view your role as just soliciting</b>  12 <b>facts to see whether or not the allegation was</b>  13 <b>true?</b></p> <p>14 A. Yes, sir.</p> <p>15 <b>Q. Do you think you ultimately did more than just</b>  16 <b>solicit the facts to see if the allegation was</b>  17 <b>true?</b></p> <p>18 A. In what way?</p> <p>19 <b>Q. That you became an advocate?</b></p> <p>20 A. For who, just an advocate in general?</p> <p>21 <b>Q. An advocate recommending punishment,</b>  22 <b>recommending sanction?</b></p> <p>23 MS. NELSON: Object to the form.</p>	<p>1 <b>Q. Yeah. Just prior to your --</b>  2 A. Prior to even talking to her?</p> <p>3 <b>Q. Prior to taking her statement, yeah.</b>  4 A. Hold on.</p> <p>5 <b>Q. I'm not trying to trap you. You did give her</b>  6 <b>a garrity notice.</b></p> <p>7 A. I would have.</p> <p>8 MS. NELSON: Well, again, I'd object to  9 the form. Do you know you did?</p> <p>10 MR. JAFFREE: Yeah. It's part of the --</p> <p>11 MS. NELSON: It is? Where?</p> <p>12 MR. JAFFREE: Right here (indicating).</p> <p>13 <b>Q. I'm not saying this to try to trap you, I'm</b>  14 <b>just simply trying to get to a point.</b></p> <p>15 MS. NELSON: Okay.</p> <p>16 <b>Q. This is both aside for the Record, that I'm</b>  17 <b>not as -- well, I don't want to have to call</b>  18 <b>it clever, but there's a propensity for</b>  19 <b>investigators to say: I'm not trying to trap</b>  20 <b>you, I'm not trying to -- not trying to be</b>  21 <b>slick or anything, I'm just trying to get some</b>  22 <b>facts.</b></p> <p>23 <b>But it seems like the intent is to trap.</b></p>
<p>1 A. No, sir.</p> <p>2 <b>Q. You don't think so?</b></p> <p>3 A. No.</p> <p>4 <b>Q. Well, we'll get into that in a minute, but let</b>  5 <b>me go back again.</b></p> <p>6 <b>Based on what the judge told you, as you</b>  7 <b>have just stated, from your experience, which</b>  8 <b>is quite lengthy as a member of the police</b>  9 <b>force, is there a potential crime in any of</b>  10 <b>that allegation, a criminal activity in any of</b>  11 <b>that allegation?</b></p> <p>12 A. Not that I know of. And that wasn't -- I  13 wasn't investigating it as a criminal  14 investigator. I was investigating it as an  15 administrative investigator.</p> <p>16 <b>Q. Do you know if prior to your discussion with</b>  17 <b>Ms. Brackin you gave her a garrity notice?</b></p> <p>18 A. I wouldn't have.</p> <p>19 <b>Q. You wouldn't have?</b></p> <p>20 A. No.</p> <p>21 <b>Q. Do you know if anyone gave her the garrity</b>  22 <b>notice?</b></p> <p>23 A. You're saying prior to an interview?</p>	<p>1 <b>But --</b></p> <p>2 MS. NELSON: Object to the form. Object  3 to your statement. Object to your  4 speculations.</p> <p>5 MR. JAFFREE: Well, I mean, it's all part  6 of the record.</p> <p>7 <b>Q. But be that as it may, why did you give her a</b>  8 <b>garrity warning if there was no possibility of</b>  9 <b>any criminal charges coming from this?</b></p> <p>10 MS. NELSON: Object to the form. I don't  11 know that he ever testified that there  12 was no possibility of any criminal  13 activity coming from it.</p> <p>14 <b>Q. Based on the information that you had gathered</b>  15 <b>from the judge during your interview,</b>  16 <b>unrecorded with the judge, what possible</b>  17 <b>criminal charges could be brought against</b>  18 <b>Ms. Brackin, based on the facts that was</b>  19 <b>before you at the time?</b></p> <p>20 MS. NELSON: Object to the form.</p> <p>21 A. If -- if I were assigned to it initially,  22 there -- to my knowledge, there wouldn't have  23 been any criminal activity that I know of.</p>

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<p style="text-align: center;">Page 57</p> <p>1 afoot for me to even have received that 2 investigation. That would've gone to the 3 criminal investigations division.</p> <p>4 <b>Q. Well, do you know the purpose of the garrity 5 notice or the garrity warning?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. What do you think is the purpose?</b></p> <p>8 A. I think the purpose is to advise a 9 governmental employee, which Ms. Mary Brackin 10 was a part of the City of Dothan government, 11 that they are compelled to answer truthfully 12 questions as it relates to an administrative 13 investigation only, and that anything that 14 they say in regards to that administrative 15 investigation is not and will not be used in a 16 subsequent criminal investigation.</p> <p>17 <b>Q. Do you know why the garrity rule was required?</b></p> <p>18 MS. NELSON: Object to the form. That 19 calls for a conclusion of law. But to 20 the extent he knows --</p> <p>21 <b>Q. Yeah, if he knows. I mean, are you familiar 22 with the garrity --</b></p> <p>23 (Court reporter interrupted for</p>	<p style="text-align: center;">Page 59</p> <p>1 investigation. And so you shield that 2 information from any subsequent criminal 3 investigation.</p> <p>4 MS. NELSON: Object to your formal 5 statement, but if you understand.</p> <p>6 <b>Q. Do you think -- do you agree that that's sort 7 of part of it?</b></p> <p>8 A. Sir, actually, what I stated earlier was 9 basically the same thing you said but in a 10 different form, in my opinion.</p> <p>11 <b>Q. Now, isn't it true that during your 12 investigation or during your -- do you call it 13 interrogation or do you call investigation? 14 When you do your internal affairs 15 investigation, do you consider yourself 16 interrogating the witness?</b></p> <p>17 MS. NELSON: Object to the form.</p> <p>18 A. I'm investigating the allegations, and 19 witnesses are questioned as it relates to 20 information that I obtained during the 21 investigation.</p> <p>22 <b>Q. Would you be comfortable with term that you 23 also interrogate the witnesses?</b></p>
<p style="text-align: center;">Page 58</p> <p>1 <b>clarification.)</b></p> <p>2 MS. NELSON: Object that it calls for a 3 legal conclusion.</p> <p>4 A. What was your question again?</p> <p>5 <b>Q. Were you familiar with the garrity case from 6 which the rule, the policy, the notice 7 derived?</b></p> <p>8 A. I'm not an attorney. I could give you a 9 ballpark, but I can't give you any -- I can't 10 just state specifically as -- as you probably 11 could. I don't know the entire history. I 12 think I've read it, but I haven't reduced it 13 to memory.</p> <p>14 <b>Q. Do you understand that garrity is designed to, 15 on one hand, protect somebody's Fifth 16 Amendment rights and, on the other hand, allow 17 information to be gathered that can be useful 18 in administrative cases? But the purpose is 19 to avoid somebody from being -- having to make 20 the Hobson's Choice of sacrificing Fifth 21 Amendment rights or sacrificing their job and, 22 therefore, compelling testimony from people 23 that can be used in a subsequent criminal</b></p>	<p style="text-align: center;">Page 60</p> <p>1 MS. NELSON: Object to the form.</p> <p>2 A. No, sir.</p> <p>3 <b>Q. You wouldn't be comfortable with that?</b></p> <p>4 A. No, sir.</p> <p>5 <b>Q. You understand, of course, that some of the 6 witnesses are apprehensive?</b></p> <p>7 A. They could be.</p> <p>8 <b>Q. Do you remember what Ms. Brackin's position 9 was with respect to the allegation that she 10 had accused an attorney of literally being 11 incompetent, and there's been several 12 complaints against this attorney?</b></p> <p>13 A. Yes.</p> <p>14 <b>Q. She did deny the allegation, correct?</b></p> <p>15 A. Correct.</p> <p>16 <b>Q. She also indicated that she hardly knew that 17 attorney, correct?</b></p> <p>18 A. No, that's incorrect.</p> <p>19 <b>Q. That's not correct?</b></p> <p>20 A. No, sir. She said that she thought that they 21 had a -- a very -- quote, unquote, had a very 22 good rapport with Mr. McGhee.</p> <p>23 <b>Q. But she also said, quote, I'd only worked with</b></p>

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1 him one time in court, unquote. 2 MS. NELSON: What are you reading from? 3 MR. JAFFREE: Number 1281, page 6. 4 MS. NELSON: Page 6. 5 Q. Matter of fact, I did my statement a 6 injustice. To read the complete paragraph of 7 what she said, that's even an injustice. Let 8 me read you a question of hers. 9 "Okay. And -- but do you know Shaun 10 McGhee?" 11 Answer: "Yes." 12 That's Mary Beth's answer. 13 Here's your question -- I'm not -- not 14 your question. This is Mr Coleman's question, 15 but you was there when Coleman was asking 16 these questions, correct? 17 A. Yes, sir. 18 Q. Mr. Coleman said, "Well, how long have you 19 known Shaun McGhee?" 20 Her response: "I don't really -- I think 21 I was introduced to him, you know. It was 22 either while we were in court and he -- right 23 before he became the public defender. But as	1 what you just read, it says that when she met 2 him, it was in court. This document doesn't 3 say how long they may have known each other, 4 and it doesn't give a specific date on when 5 they were in court when they met. So I cannot 6 assume just by this document that this is the 7 first time they met because that's not what it 8 says as far as how long they've known each 9 other. 10 Q. Well, do you generally get introduced to 11 people that you have known for a long time? 12 MS. NELSON: Object to the form. 13 Q. As far as you know, the term, I was introduced 14 to him? 15 A. To answer your question, no. 16 Q. Let me just see if I can speed this along. 17 You agree that she denied the 18 allegations. Would you also agree that 19 Ms. Rapaport did not confirm the allegations? 20 MS. NELSON: Ms. Ralpeje. 21 A. Ms. Ralpeje? 22 Q. Sorry. Ms. Ralpeje did not confirm the 23 allegations. If you recall. I got the record
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1 far as -- I'd only worked with him one time in 2 court." 3 So based on -- 4 MS. NELSON: Well, you're not going on 5 to -- if you'd go on. 6 MR. JAFFREE: Well, I don't want to go on. 7 MS. NELSON: You don't want to go on? 8 Okay. Well, I'd ask that the Record 9 be complete as to the rest of the 10 statement, that she had a good rapport 11 from him -- with him. 12 MR. JAFFREE: Well, okay. Since you 13 insist. 14 Q. Mr. Coleman said, "Okay." 15 And Ms. Brackin said, "and I had a very 16 good rapport with him. And, in fact, I told 17 Donna that, you know, he was going to be a -- 18 be good for us, that he had done a real good 19 job." 20 Now, you understand, she's referring to 21 the one time she saw him, correct? 22 MS. NELSON: Object to the form. 23 A. Not to twist everything up, but according to	1 here, so if you don't recall, then that's 2 fine. 3 MS. NELSON: Well, he hadn't had a chance 4 to look at it, but the report can 5 speak for itself I believe -- 6 MR. JAFFREE: Well, the report can. 7 MS. NELSON: -- if he can't recall. If 8 you can recall, please take your time. 9 THE WITNESS: Okay. 10 A. Based on my interview with Ms. Ralpeje, in 11 regards to what was said, Ms. Ralpeje told 12 Ms. Mary Beth that if her lawyer instructed 13 her to plead guilty to DUI the first time and 14 he advised her to appeal it, it does not seem 15 like he's a very good lawyer. This came from 16 Mr. -- Ms. Ralpeje. 17 Q. I'm talking about -- I'm not talking about 18 your summarization. I mean, Ms. Ralpeje's 19 statement itself. 20 A. This was -- come from what Ms. Ralpeje told 21 me. 22 Q. Well, Ms. Ralpeje did not indicate that 23 Ms. Brackin had told her that the lawyer was

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<p>1      <b>incompetent or that there were numerous</b>  2      <b>complaints against him.</b></p> <p>3      A. Can I review her -- the statement I took with  4      her?</p> <p>5      MS. NELSON: Again, I -- because, yeah. I  6      object to your testifying as to what  7      Ms. Ralpeje said.</p> <p>8      (Brief pause)</p> <p>9      A. Confirming what I said just a minute ago, in  10     Ms. Ralpeje's statement I've got, quote, what  11     I read to her and what I said to her and what  12     she responded back.</p> <p>13     My statement was, "I mean, just if you  14     want to paraphrase it, paraphrase it. Say,  15     this isn't the exact words, but as much you  16     can remember, just" --</p> <p>17     Ms. Ralpeje's reply was, "Okay. She" --  18     she, meaning Ms. Brackin. "She basically gave  19     me an option -- an opinion that if he told  20     you, you know, if he instructed me to, you  21     know, plead guilty the first time and then  22     there -- and then here it is a week later and  23     now he's instructing me to appeal it, that</p>	<p>1      <b>confirm any of that allegation about the</b>  2      <b>incompetence or numerous complaints?</b></p> <p>3      A. She did not.</p> <p>4      Q. <b>So what you have is a probation officer saying</b>  5      <b>one thing, who was on the phone most of the</b>  6      <b>time by eyewitness accounts and was spending</b>  7      <b>time talking as opposed to listening, and you</b>  8      <b>have the people that was intimately involved</b>  9      <b>that didn't confirm it.</b></p> <p>10     MS. NELSON: Object to your  11     characterization.</p> <p>12     Q. <b>Well, I'm mentioning this because I'm going to</b>  13     <b>ask you a question.</b></p> <p>14     <b>And would you agree that for some reason</b>  15     <b>you interviewed Donna -- what's Donna's last</b>  16     <b>name?</b></p> <p>17     A. The same person we're talking back?  18     Grumbach?</p> <p>19     Q. <b>No, no. Not her. Is it Donna? I think</b>  20     <b>it's -- yeah. Donna Nicholson. Do you agree</b>  21     <b>that you interviewed Donna Nicholson?</b></p> <p>22     (Brief pause)</p> <p>23     Q. <b>Do you remember whether you interviewed Donna</b></p>
<p>1      doesn't seem like he's a very good lawyer."</p> <p>2      Q. <b>Now -- go ahead.</b></p> <p>3      (Brief pause)</p> <p>4      MS. NELSON: Did that not respond to your  5      question?</p> <p>6      MR. JAFFREE: Not really because  7      she -- she was saying, if what you've  8      told me is true -- and the first part  9      of Ms. Ralpeje's statement was that  10     she was drunk at the time and can't  11     rely on her memory.</p> <p>12     Q. <b>But, also, the part of my question dealt with</b>  13     <b>her saying that Ms. Brackin had said, we had</b>  14     <b>numerous complaints against him. You won't</b>  15     <b>find that at all in her testimony.</b></p> <p>16     A. That's correct.</p> <p>17     Q. <b>There's Donna Grumbach was right next to her</b>  18     <b>who didn't confirm any of that either.</b></p> <p>19     MS. NELSON: Are you testifying,  20     Mr. Jaffree?</p> <p>21     MR. JAFFREE: Well, I'm asking him if --</p> <p>22     MS. NELSON: Is that a question?</p> <p>23     Q. <b>Do you agree that Donna Grumbach did not</b></p>	<p>1      <b>Nicholson?</b></p> <p>2      A. Yes.</p> <p>3      Q. <b>Do you recall attempting "every which way but</b>  4      <b>loose" to get Ms. Nicholson to agree to</b>  5      <b>discipline Ms. Brackin?</b></p> <p>6      MS. NELSON: Object to the form.</p> <p>7      A. No.</p> <p>8      Q. <b>Do you agree discussing with her all the</b>  9      <b>different types of theories that she could</b>  10     <b>discipline Ms. Brackin with?</b></p> <p>11     MS. NELSON: Object to the form.</p> <p>12     A. No.</p> <p>13     Q. <b>You don't remember that, huh? Okay.</b></p> <p>14     A. If you can show me something specifically,  15     I'll be glad to --</p> <p>16     Q. <b>There's so much of it in here, but I won't</b>  17     <b>take the time. I mean, if you don't know,</b>  18     <b>that's fine.</b></p> <p>19     <b>What was your purpose of interviewing</b>  20     <b>Ms. Nicholson in the first place?</b></p> <p>21     A. She was one of the employees over there at the  22     magistrates' office. She was I think acting  23     in the capacity of -- as the supervisor at</p>

17 (Pages 65 to 68)

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1        this time.	1        the necessity of reading it.
2 <b>Q. Wasn't she more than that? Wasn't she</b>	2 <b>MR. JAFFREE: I just want to make sure I'm</b>
3 <b>administrator of the department?</b>	3        not getting him confused with
4   A. Could have been, but, like, she supervises the	4        Mr. Coleman because they both
5        magistrates.	5        interviewed her.
6 <b>Q. She was in charge of the department, and, yet</b>	6 <b>Q. I mean, because your names are interspersed</b>
7 <b>the judge instigated this investigation.</b>	7 <b>here. But let me let you read it. And if</b>
8 <b>Now, if the judge has said that she don't</b>	8 <b>it's Coleman, then I apologize.</b>
9 <b>have the time to investigate and that's why</b>	9   A. You want me to read it?
10 <b>she used the police department --</b>	10 <b>Q. Yeah.</b>
11     MS. NELSON: Object to the form. That's	11   A. Want me to read it aloud?
12        your testimony. That was not her	12 <b>Q. Well, no, I don't want you to read it aloud.</b>
13        testimony or all of her testimony.	13   MS. NELSON: It's like ten pages.
14     MR. JAFFREE: That's been her testimony a	14   MR. JAFFREE: Yeah, it's a lot of pages.
15        lot.	15   MS. NELSON: I mean, how could you be
16 <b>Q. Do you have an opinion as to why Donna</b>	16        getting it confused with Mr. Coleman?
17 <b>Nicholson could not have initiated this</b>	17   MR. JAFFREE: Because I think he --
18 <b>investigation?</b>	18        Coleman was here and he said a few
19     MS. NELSON: Object to his opinion.	19        things. Coleman said a few things
20   A. No, I don't have anything.	20        here. I don't want to --
21 <b>Q. You don't recall discussing with Donna some of</b>	21   MS. NELSON: Well --
22 <b>the -- asking her, why is it she just want to</b>	22   MR. JAFFREE: -- confuse Coleman's --
23 <b>put this in the personnel file, why not bring</b>	23   MS. NELSON: You know, it's 3:30. We've
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1 <b>some strong action against her. You don't</b>	1        been here two hours.
2 <b>recall that at all?</b>	2 <b>Q. Well, then you don't have to read it. All</b>
3   A. No, sir.	3 <b>right.</b>
4        MS. NELSON: And I'd also ask for the	4        MS. NELSON: I'm just asking you. Do you
5        Record to indicate that the witness is	5        have a specific --
6        so bewildered by that, he's laughing	6 <b>MR. JAFFREE: Okay. Well --</b>
7        and scoffing at such a suggestion.	7   MS. NELSON: He's disagreed with you.
8 <b>Q. I will take a break, if you like, and I'll let</b>	8 <b>MR. JAFFREE: He disagreed. Fine.</b>
9 <b>you read your interview with Ms. Nicholson.</b>	9   MS. NELSON: If you want to point to a --
10 <b>Would you like to do that?</b>	10 <b>MR. JAFFREE: That's fine --</b>
11   A. If that's what you want.	11   MS. NELSON: -- particular piece of
12 <b>Q. And if you -- after you read that, I will ask</b>	12        testimony or transcript --
13 <b>you if you still agree that you wasn't</b>	13        (Court reporter interrupted for
14 <b>attempting to encourage Ms. Nicholson to come</b>	14        clarification.)
15 <b>up with a much stronger sanction that just an</b>	15   MS. NELSON: I said, if you want to point
16 <b>entry in a personnel file, that that just</b>	16        to a particular part of this
17 <b>won't do.</b>	17        transcript to question him about,
18 <b>But tell me if I'm wrong after you read it</b>	18        because he's otherwise denied doing
19 <b>that --</b>	19        what you asked him about.
20     MS. NELSON: This is your testimony,	20 <b>MR. JAFFREE: Now, I will only suggest</b>
21        Mr. Jaffree. Do you want him to sit	21 <b>that when we're no longer on the</b>
22        here and read it? He's obviously	22 <b>Record if he wants to read your copy</b>
23        disagreeing with you without the --	23 <b>of the transcript, he can, so that he</b>

18 (Pages 69 to 72)

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1        can be satisfied that I'm not making 2        this up.	1        unlawful or -- or the unauthorized release of 2        information and involving Mary Turner, the 3        same thing -- same thing you're talking about.
3 <b>Q. Now, after your investigation of this</b> 4 <b>incident, did you have an occasion to speak</b> 5 <b>back with Judge Gordon?</b>	4 <b>Q. What supposedly was the scope of that</b> 5 <b>investigation?</b>
6        A. Speak or report -- give a report?	6        MS. NELSON: Which investigation are we 7        talking about?
7 <b>Q. Give a report to Judge Gordon?</b>	7        MR. JAFFREE: The investigation we were 8        just talking about, the one 9        involving --
8        A. Yes. There was a report that I submitted to 9        the police chief that was then sent to the 10       judge.	10       MS. NELSON: Mary Turner?
11 <b>Q. Do you know if this report included the</b> 12 <b>statements of the parties?</b>	11       MR. JAFFREE: Well, no. I'm talking about 12       the one involving the release of 13       information concerning Mary Turner.
13       A. No, I don't recall if it had a copy of the 14       statements of the parties.	14       MS. NELSON: Well, it's hard, you know, 15       just to make a gigantic leap -- as you 16       call the being pregnant and having the 17       baby, it's hard to make a leap to like 18       the second baby, what you're asking 19       him to do.
15 <b>Q. Well, if it didn't have the statements, then</b> 16 <b>it just had your summary; is that correct?</b>	20       MR. JAFFREE: With the --
17       A. I said I didn't recall it having the 18       transcripts. It could have, but I don't 19       recall it having the transcripts.	21       MS. NELSON: I mean, I know you're trying 22       to speed things along.
20 <b>Q. You're not sure. All right. Believe it or</b> 21 <b>not, I'm almost through with you.</b>	23
22              Let me ask you if you can recall the 23       second time you did an investigation involving	
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1 <b>Ms. Brackin -- well, let me back it up. Not</b> 2 <b>necessarily involving Ms. Brackin. Involving</b> 3 <b>someone associated with the judicial</b> 4 <b>department back in -- let's just say 2005?</b>	1 <b>Q. The release of information concerning</b> 2 <b>Ms. Turner, what was supposed to be the scope</b> 3 <b>of that investigation?</b>
5        A. Yes, sir.	4        A. The magistrates' office had been advised by 5        Judge Gordon to not release any information to 6        anyone regarding the Mary Turner investigation 7        where she was put on administrative leave. 8        After the judge advised her employees of that, 9        there was, indeed, a leak of that 10       investigation to a -- the media which was 11       known as Rickey Stokes or The Houston, which I 12       think is the name of his paper, but it goes 13       through -- Rickey Stokes is the -- I think the 14       principal in that business.
6 <b>Q. Do you remember doing an investigation because</b> 7 <b>there was a statement on Rickey Stokes' web</b> 8 <b>site indicating that an internal affairs --</b> 9 <b>some type of investigation was being conducted</b> 10 <b>on Mary Turner?</b>	15 <b>Q. Okay. So what was supposed to be the scope of</b> 16 <b>that investigation?</b>
11       A. Yes.	17       A. The -- who released the information as far as 18       the investigation on Mary Turner was the scope 19       because the judge -- the judge had already 20       directed the employees not to --
12 <b>Q. Who initiated that investigation that you were</b> 13 <b>involved in?</b>	21 <b>Q. So you were trying to --</b>
14       A. That would have came -- as I said, our 15       investigations, if it came from a different 16       department, would come from the department 17       head or his designee. I believe this one came 18       from --	22       MS. NELSON: Well, you're cutting him 23       off. Not to --
19       MS. NELSON: He's referring to his memo to 20       chief of police regarding this 21       investigation.	
22       A. Chief Powell was the one that advised me to 23       begin the investigation as it relates to the	

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<p>1           MR. JAFFREE: I'm sorry.  2           MS. NELSON: Let him finish what her  3            directives were.  4           A. Not to release information, not to talk about  5           the investigation of Mary Turner. And after  6           that directive was given by the judge, someone  7           evidently did, which was on Rickey Stokes' web  8           site.  9           <b>Q. So the mischief thought to be pursued in that</b>  10           <b>that investigation was, who released the</b>  11           <b>information?</b>  12           MS. NELSON: Object to your form, again,  13           as -- with your mischief. I don't  14           know what you mean by "mischief."  15           MR. JAFFREE: Well, I like that word.  16           MS. NELSON: Well, you must because you  17           used it many times yesterday. But, I  18           mean, if you could say like --  19           MR. JAFFREE: I used it twice.  20           MS. NELSON: -- what was the --  21           MR. JAFFREE: What's wrong with --  22           MS. NELSON: -- purpose of the  23           investigation. I mean, mischief</p>	<p>1           A. Of this investigation? Yes, sir.  2           <b>Q. That was your charge?</b>  3           A. Yes, sir.  4           <b>Q. What, if any, criminal statutes may have been</b>  5           <b>implicated by the release of this information?</b>  6           A. I don't know of any that would have been  7           criminal.  8           <b>Q. This wasn't criminal at all?</b>  9           MS. NELSON: Object to the form. He  10           didn't say that.  11           MR. JAFFREE: Well, he sort of said  12           something like that. That's what I  13           heard.  14           MS. NELSON: Well, I'll ask that his  15           testimony stand instead of your  16           paraphrasing what he said. He said he  17           didn't know of any.  18           <b>Q. I'll live with your response. I have a</b>  19           <b>feeling if it was up to opposing counsel, I</b>  20           <b>wouldn't get a chance to ask you anything.</b>  21           A. I enjoy talking to you.  22           <b>Q. Thank you.</b>  23           <b>So did you talk to people to find out who</b></p>
<p>1           connotes some --  2           MR. JAFFREE: Well, let me ask this  3            witness --  4           MS. NELSON: I'll ask that you use another  5           word besides mischief.  6           MR. JAFFREE: I will if the witness  7            doesn't understand what I mean by the  8            word.  9           A. Specifically, what are you talking about as  10           far as mischief is concerned?  11           <b>Q. Well, I'll --</b>  12           MS. NELSON: Reason, purpose, why did you  13            do this, you know. Let's just talk on  14            plain words.  15           <b>Q. The purpose of this --</b>  16           MR. JAFFREE: Well, it's plain English to  17            me.  18           <b>Q. But the purpose of this investigation was to</b>  19           <b>find out who released information; is that</b>  20           <b>correct?</b>  21           A. Yes, sir.  22           <b>Q. And that was supposed to be the scope of the</b>  23           <b>investigation?</b></p>	<p>1           <b>exposed the very information that the judge</b>  2           <b>warned them not to disclose?</b>  3           A. Yes, sir.  4           <b>Q. Prior to talking to people, did you talk to</b>  5           <b>the judge?</b>  6           A. Yes, sir.  7           <b>Q. Was that discussion recorded?</b>  8           A. No, sir.  9           <b>Q. Why did you care who released information to</b>  10           <b>the media?</b>  11           MS. NELSON: Object to the form. I don't  12           know that he ever testified that he  13            did care.  14           <b>Q. Well, did you care?</b>  15           MS. NELSON: He was doing his job.  16           MR. JAFFREE: Well, he didn't indicate  17            that he didn't care.  18           <b>Q. I mean, did you care?</b>  19           MS. NELSON: Care in what --  20           A. I don't -- I don't have any -- I didn't have  21            any personal feelings. And if that's what you  22            mean by "care," I didn't have any personal  23            feelings on who did it. It was a directive</p>

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1        that wasn't followed that I was told to 2        investigate, and that was it. 3 <b>Q. Well, how did y'all reach the conclusion that</b> 4 <b>it was a directive that was not followed; was</b> 5 <b>this directive given to Mary Turner?</b> 6        A. She was wasn't present during that time -- 7 <b>Q. In that case --</b> 8        A. -- to my knowledge. 9 <b>Q. In that case, Mary Turner could have released</b> 10 <b>the information to Rickey Stokes, correct?</b> 11      MS. NELSON: Object to -- 12      A. You're saying could have? 13      MS. NELSON: This calls for speculation. 14 <b>Q. Well, I mean, could she have?</b> 15      MS. NELSON: Well, I'd ask him to review 16      Rickey Stokes -- I'd ask him to review 17      what was on the web site. Based on 18      what was on the web site, I don't know 19      how Mary Turner could have knowledge 20      of what was in the web site -- in 21      Rickey Stokes' web site. 22 <b>Q. Well, what was in there that Mary Turner could</b> 23 <b>not have had knowledge of, since counsel has</b>	1        don't think she would have known that there 2        was an investigation from me about this 3        particular additional -- this investigation 4        came after she was already on administrative 5        leave for something else. So she -- she 6        wouldn't have known that there was a separate 7        investigation dealing with the release of 8        information because she wasn't in the office, 9        as you stated earlier. So she wasn't at the 10      office whenever I -- 11      MR. JAFFREE: I have to hunt for mine. Do 12      you have an objection to me making 13      this part of the record, to make a 14      copy and make this as an exhibit? 15      MS. NELSON: You're talking about the 16      entire investigation. 17      MR. JAFFREE: No. Just that one -- 18      MS. NELSON: No. If you're going to make 19      the -- I'd ask that we make the 20      entire -- or at least the report. 21      MR. JAFFREE: I don't want to have this 22      deposition costing an arm and a leg 23      and your nose and your head as well.
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1 <b>quickened your response? Help us out here.</b> 2        A. Okay. Just a second. 3        (Brief pause) 4        MS. NELSON: See if you can answer. 5        That's my objection but I don't -- 6        He's calling for -- what's the last 7        question on the table? I forgot. 8 <b>Q. What is it that was on that web site that Mary</b> 9 <b>Turner could not have had knowledge of?</b> 10      MS. NELSON: And that was my objection. 11      A. Speculating -- 12      MS. NELSON: Yeah. 13      A. This is all speculatory. Mary could have had 14      knowledge of this information, so could 15      have -- so could, you know, the people that 16      was in the office during the investigation. 17      It depends on if someone leaked information to 18      Mary Turner. So she could have done this if 19      someone leaked information from inside the 20      office, and she could have told Rickey Stokes. 21 <b>Q. Well, what information could -- she would not</b> 22 <b>have had independent knowledge of?</b> 23      A. She wouldn't have known that there was a -- I	1        So if -- 2        MS. NELSON: Well, no, I -- 3        MR. JAFFREE: -- I could just get that one 4        page. 5        MS. NELSON: I am going to object to the 6        one page if we can't do it all. 7        MR. JAFFREE: I'll have to hunt for mine. 8        Can I ask you what page number is 9        that? 10      MS. NELSON: The Bates -- 11      MR. JAFFREE: Since you're looking at it. 12      MS. NELSON: I don't have the 13      Bates-stamped pages. I'm sorry. 14      MR. JAFFREE: Well, do you have a 15      Bates-stamped page in front of it. 16      MS. NELSON: No, I don't. 17      MR. JAFFREE: Well, you don't have any of 18      them. 19      MS. NELSON: The copy I've brought with me 20      is not Bates-stamped. 21      MR. JAFFREE: Well, since you looked at it 22      can I -- 23      THE WITNESS: That's it.

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1 MR. JAFFREE: This is it, right here. 2 Since you won't assist me, I will 3 assist myself and mark this as 4 Plaintiffs' Exhibit 15 and show you. 5 (Plaintiffs' Exhibit 15 was marked 6 for identification.)	1 A. No, I don't know whether she could have or 2 not. 3 Q. Well, what about Michelle Sellers; do you 4 think she knew about the investigation? 5 MS. NELSON: Again, I object. 6 Q. Do you know whether she knew about the 7 investigation? 8 MS. NELSON: I think everybody in the 9 magistrates' office knew about the 10 investigation. They had been 11 instructed not -- 12 A. Michelle Sellers did know. 13 MS. NELSON: -- not to talk about and not 14 to talk to Mary Turner. 15 Q. Did you interview Michelle? 16 A. Yes. 17 Q. Under oath. Under oath? 18 A. Sir? 19 Q. Under oath? 20 A. I didn't put anybody under any kind of oath. 21 Q. But did you give Michelle the garrity notice? 22 A. Just a second and I'll tell you. 23 Q. Just so we're clear, is the publication of
	(Brief pause)
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1 this information on the web site that 2 triggered this investigation, the 3 investigation we was talking about, that 4 caused you to go out and interview other 5 members of the judicial department? 6 A. That's correct. 7 Q. Did you interview any members of the police 8 force? 9 A. As a part of that release of information? 10 Q. Yeah. 11 A. I don't think that I did. 12 Q. Did you interview under oath Judge Gordon? 13 A. No. 14 Q. Did you read Judge Gordon the garrity rights? 15 A. No. 16 Q. Could Judge Gordon have released this 17 information? 18 MS. NELSON: Object to the form. 19 A. Speculating, I would -- I can't give -- 20 MS. NELSON: I'd ask you not to speculate. 21 A. -- you an accurate answer. I can't give you 22 an accurate answer. It would be speculating. 23 Q. You don't know whether she could have or not?	1 MR. JAFFREE: Off the Record. 2 (Off-the-Record discussion) 3 A. I don't believe interviewed Michelle Sellers 4 as a part of this investigation. Michelle 5 Sellers, her office was located in -- in 6 this -- excuse me -- in the municipal 7 courtroom. At the time, it wasn't located 8 over at the magistrates' office. She was in a 9 different capacity. I -- she was the judge's 10 assistant -- administrative assistant, so she 11 wasn't in with the magistrates over there 12 during -- during this time. 13 Q. How did you know exactly what the judge had 14 instructed the staff not to do; did she give 15 you something in writing? 16 A. I'm -- I'm not clear what you're asking. 17 MS. NELSON: What time frame are you 18 talking about? 19 Q. Well, during the time that you was initiating 20 your investigation of who leaked information? 21 When I use the term "who leaked information," 22 do you understand that? 23 A. I understand that.

22 (Pages 85 to 88)

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1 <b>Q. Did the judge give you any kind of statement</b> 2    as to what she had instructed her staff, or 3    she just verbally told you? 4    A. I was there when the judge instructed the 5    staff not to release any information. Is that 6    what you're talking about?	1    MS. NELSON: Well, I think you're 2    confusing -- completely confusing the 3    issue. 4    MR. JAFFREE: Well, that's not -- 5    MS. NELSON: And you're confused yourself 6    because you're asking, what 7    investigation was he involved in. 8    MR. JAFFREE: Well -- 9    MS. NELSON: Let him testify. 10   MR. JAFFREE: Well, your confused if you 11    think I'm confused because I'm not 12    confused. 13   MS. NELSON: Well, I think -- 14   MR. JAFFREE: And, therefore, you must be 15    confused. 16   MS. NELSON: Well, I think the witness is 17    confused.
17 <b>Q. Doing which investigation?</b> 18   A. The one that you're questioning me about. 19 <b>Q. Well, no. When she instructed her staff, that</b> 20 <b>was before this investigation.</b> 21    MS. NELSON: Well, he's talking about the 22    whole Mary Turner investigation, I 23    believe.	18 <b>Q. Let's take this a linear way. There was an</b> 19 <b>investigation of ticket fixing allegedly.</b> 20    MS. NELSON: Involving -- say involving 21    who. Let's just be clear what we're 22    talk about. 23 <b>Q. Involving Ms. Turner.</b>
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1 <b>Q. Well, which -- were you involved in the other</b> 2 <b>Mary Turner investigation?</b> 3    A. What do you mean, the other? I need you to be 4    specific. There's been so many different 5    things. 6 <b>Q. There was investigation of a ticket.</b> 7    A. Yes. 8 <b>Q. And then there was something that appeared on</b> 9 <b>Rickey Stokes.</b> 10   A. Yes. 11 <b>Q. And then there was an investigation of who</b> 12 <b>leaked information to Rickey Stokes. Now,</b> 13 <b>after the investigation of the ticket was</b> 14 <b>initiated, the judge addressed the staff.</b> 15 <b>That was before this investigation of who</b> 16 <b>leaked information because information hadn't</b> 17 <b>been leaked at that time.</b> 18 <b>Are you following me?</b> 19    MS. NELSON: You know, maybe if you'd just 20    ask him what occurred and what 21    involvement he had, he'll tell you. 22    MR. JAFFREE: Well, maybe I can just ask 23    him the way that I'm asking him.	1    A. Okay. 2 <b>Q. An allegation of ticket fixing involving</b> 3 <b>Ms. Turner.</b> 4    MS. NELSON: Is that a question? 5 <b>Q. See if you can follow this track, and stop me</b> 6 <b>when I'm saying something incorrect.</b> 7    That investigation led to the suspension 8    of Ms. Turner. Around the same time that 9    Ms. Turner was suspended, the judge made a 10    statement to the staff: Do not disclose this 11    information. Do not disclose. Ms. Turner's 12    gone temporarily. There is an investigation. 13 <b>Do not talk about this. That came next.</b> 14    Suddenly -- 15    MS. NELSON: Just for the Record, that's 16    not all that was said during that 17    meeting. 18    MR. JAFFREE: Well, for this purpose of 19    this dialogue, it's all I want to 20    point out that was said. 21    MS. NELSON: Okay. It's not accurate but 22    okay. Go ahead. 23    And that's the meeting he's

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1        trying to tell you, he was there. 2 <b>Q. You was at that meeting?</b> 3   A. You're putting two things together. If I 4   understand right, when Ms. Turner was put on 5   some type of administrative leave -- and I 6   think the judge had a meeting with them and 7   told them that she was on administrative 8   leave. That is totally different from this 9   meeting that we're talking about, the 10   investigation due to the release of 11   information.  <b>Q. I'm talking about the earlier meeting.</b> 13   A. I wasn't there.  <b>Q. So you wasn't at the earlier meeting?</b> 15   A. I had nothing to do with -- 16        MR. JAFFREE: I think counsel -- 17   A. -- when she told her -- when she told her 18   staff that she was on --  <b>Q. Okay. All right.</b> 20   A. So you've merged both things together, and 21   they're not. I believe they're two separate 22   --  <b>Q. I was hoping not to, but now I think we are on</b>	1        she can pick it up. 2   A. I'm sorry. I'm sorry. Yes, sir.  <b>Q. Now, in order for this to get on a web site,</b> 4 <b>somebody must have told somebody about</b> 5 <b>information concerning the investigation.</b> 6        Are you following me? 7   A. Yes, sir.  <b>Q. Is that correct?</b> 9   A. I'm following you.  <b>Q. Somebody must have told somebody. When you</b> 10 <b>interviewed people, did you ask them if they</b> 11 <b>talked to anybody about what the judge had</b> 12 <b>told them not to talk about?</b> 14   A. Yes.  <b>Q. Because if they talked to somebody about what</b> 15 <b>the judge had told them not to talk about,</b> 16 <b>then they did something in violation of the</b> 17 <b>judge's directive; is that correct?</b> 19   A. The judge directed them not to talk about the 20   case.  <b>Q. Did you --</b> 22        MS. NELSON: Are you finished? 23   A. That's correct.
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1 <b>the right track. Now --</b> 2   A. To my knowledge, I wasn't there.  <b>Q. Okay. This appeared on the web site.</b> 4        MS. NELSON: What? Let's talk about what 5   we're talking about.  <b>Q. The information that's on Plaintiffs' Exhibit</b> 6 <b>15 appeared on the web site, correct? This</b> 7 <b>information appeared on the web site?</b> 9   A. Yes, sir.  <b>Q. Did you personally see it on the web site?</b> 11   A. I can't say that I did. I don't remember.  <b>Q. You may have been subsequently informed that</b> 12 <b>it was on the web site?</b> 14   A. Yes, sir.  <b>Q. And the new investigation was to find out who</b> 15 <b>leaked it?</b> 17   A. Yes.  <b>Q. That was your charge?</b> 19   A. Yes, sir.  <b>Q. And you told the people that you was</b> 20 <b>investigating it, and this was your charge?</b> 22   A. Uh-huh (positive response). 23        MS. NELSON: You need to say yes or no so	1 <b>Did you discover, in talking to members of the</b> 2 <b>judicial department staff that some members</b> 3 <b>had, in fact, talked to people?</b> 4   A. Yes.  <b>Q. Did you interview these people that they said</b> 5 <b>they had talked to, to see if they had, in</b> 6 <b>turn, talked to any people?</b> 8   A. Did I interview the people that were alleged 9   to have received the information?  <b>Q. Yeah.</b> 11   A. Then, no.  <b>Q. Well, if you was trying to track down who gave</b> 12 <b>information to Rickey Stokes and anybody who</b> 13 <b>had the information, either firsthand,</b> 14 <b>secondhand, or thirdhand, could have given</b> 15 <b>that information to Rickey Stokes, did you not</b> 16 <b>feel the need to talk to the people that they</b> 17 <b>had talked to?</b> 19   A. No.  <b>Q. Didn't find any need?</b> 21   A. No.  <b>Q. Why not?</b> 23   A. If an employee told me that they spoke to

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<p>1 someone else about the investigation, that  2 individual is not the focus of the directive  3 that the judge gave or the investigation.  4 That's someone that's on the outside that was  5 told by a magistrate something -- something  6 that was going on.</p> <p>7 <b>Q. So you didn't care that Rickey Stokes had the</b>  8 <b>information; you were only concerned with</b>  9 <b>whether or not somebody in the magistrates'</b>  10 <b>office gave that information?</b></p> <p>11 MS. NELSON: Object to whether he cared or  12 not --</p> <p>13 <b>Q. Is that correct?</b></p> <p>14 MS. NELSON: -- as to his -- your  15 interpretation of your question about  16 whether or not he cared. It's an  17 improper question.</p> <p>18 <b>Q. Is that correct?</b></p> <p>19 A. I don't have any personal feelings about that  20 -- the release of that information. My charge  21 was to investigate who may have leaked the  22 information as it came out of the magistrates'  23 office.</p>	<p>1 <b>Q. So everyone who spoke to someone was in</b>  2 <b>violation of the judge's directive?</b></p> <p>3 A. The judge's directive was clear. And --</p> <p>4 <b>Q. Well, did you realize at the time you was</b>  5 <b>talking to the members of the judge's staff,</b>  6 <b>or if there's any ambiguity, the members of</b>  7 <b>the judicial department who admitted that they</b>  8 <b>had spoken to someone, that they had violated</b>  9 <b>the judge's directive?</b></p> <p>10 A. Yes, I knew at the time.</p> <p>11 <b>Q. Did you recommend any kind of disciplinary</b>  12 <b>action because these people had violated the</b>  13 <b>judge's directive?</b></p> <p>14 A. I don't recommend discipline in this -- I did  15 not recommend discipline in this case.</p> <p>16 <b>Q. Did you point out any type of the personnel</b>  17 <b>policy rules that may have been violated with</b>  18 <b>respect to the people who had communicated</b>  19 <b>information to someone about an investigation</b>  20 <b>was ongoing?</b></p> <p>21 A. That was a mouthful. Could you say that  22 again, please?</p> <p>23 <b>Q. Did you recommend in your report what</b></p>
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<p>1 <b>Q. So your concern was not whoever gave the</b>  2 <b>information to Rickey Stokes; your concern was</b>  3 <b>whether or not somebody from the magistrates'</b>  4 <b>office gave the information to Rickey Stokes?</b></p> <p>5 A. My investigation was to who leaked the  6 information, and it was dealing with the  7 magistrates that were under -- that had  8 asked -- been asked questions by internal  9 affairs in regards to the release of that --  10 that information. So the information that was  11 on the web site was being I guess -- I was I  12 directed to investigate the persons out of the  13 magistrates' office who could have possibly  14 leaked that information to the web site.</p> <p>15 <b>Q. Well, in your opinion, anyone from the</b>  16 <b>magistrates' office that talked to anyone</b>  17 <b>about the investigation, would they be in</b>  18 <b>violation of the judge's direction not to talk</b>  19 <b>to anyone?</b></p> <p>20 A. If the judge -- the judge directed them not to  21 speak to anybody about that investigation,  22 then that's correct. It -- that was her  23 directive?</p>	<p>1 <b>personnel rules may have been violated by the</b>  2 <b>people who provided information to third</b>  3 <b>parties in violation of the judge's directive?</b></p> <p>4 (Brief pause)</p> <p>5 A. I told the judge that employees had spoke  6 about this case to spouses, things of that  7 nature; I did tell her that had occurred.</p> <p>8 <b>Q. Did you tell her that an employee had spoken</b>  9 <b>about this case to a friend?</b></p> <p>10 A. I can't say that I recall going specifically  11 down line with each -- each individual that I  12 interviewed and told who they released the  13 information to. I did tell her that they had,  14 in fact, spoken to other people such as  15 spouses and things of that nature.</p> <p>16 <b>Q. Did you recommend or did you point out some</b>  17 <b>kind of major offense that Mary Brackin may</b>  18 <b>have committed?</b></p> <p>19 A. I did quote the personnel rules and  20 regulations of insubordination as it relates  21 to Mary Beth Brackin to the judge in my  22 report.</p> <p>23 <b>Q. Why did you report personnel rules and</b></p>

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<p>1      <b>regulations violations with respect to</b>  2      <b>Ms. Brackin and not report the personnel rules</b>  3      <b>and regulations violation with respect to any</b>  4      <b>of the other employees?</b></p> <p>5      A. Because within this investigation, Mary Beth  6      Brackin was the only employee that spoke to  7      the person that they were directed not to have  8      contact with. The judge directed them not to  9      have contact, not to speak with Mary Turner,  10     involving this investigation. Mary  11     Brackin -- Mary Beth Brackin did talk to  12     Ms. Turner which was the subject of the  13     investigation. And none of the other  14     employees talked to Ms. Turner that was the  15     subject of the investigation.</p> <p>16     Q. <b>Well, I thought you just said earlier that the</b>  17     <b>subject of this investigation was who leaked</b>  18     <b>information to Rickey Stokes.</b></p> <p>19     MS. NELSON: Object to the form. And  20     you're distorting his testimony.</p> <p>21     MR. JAFFREE: I'm not distorting anything.</p> <p>22     Q. <b>The subject of this investigation was who</b>  23     <b>leaked information to Rickey Stokes. Do we</b></p>	<p>1      contact with Ms. Brackin, not to go in her  2      office.</p> <p>3      MS. NELSON: Ms. Turner.</p> <p>4      A. Excuse me. With Ms. Turner. Not to go in her  5      office, not to have any contact -- verbal  6      contact, any contact with her as a result of  7      the ongoing investigation. And then there's a  8      release of information here that went to  9      Rickey Stokes as far as the investigation was  10     concerned.</p> <p>11     Q. <b>Did the judge --</b></p> <p>12     MS. NELSON: The investigation of what?  13     Let's get that straight because we --</p> <p>14     A. The investigation of the release of  15     information is one thing, and then the  16     directive that the judge gave for no one to  17     talk, have contact with Mary Beth Turner is --</p> <p>18     Q. <b>Did she --</b></p> <p>19     MS. NELSON: Mary Turner. I know there's  20     a lot of Marys.</p> <p>21     MR. JAFFREE: Well, if I was somebody, I  22     would say, leave the record the way it  23     is, but you can correct the Record.</p>
<p>1      <b>need to look at the exhibit?</b></p> <p>2      MS. NELSON: You're terribly confusing the  3      facts of this case.</p> <p>4      MR. JAFFREE: I'm not confusing anything.  5      I'm not confusing anything.</p> <p>6      MS. NELSON: Well, you are confused.</p> <p>7      MR. JAFFREE: I'm not. Then you're  8      confused. Okay?</p> <p>9      Q. <b>I suspect if you look at your testimony,</b>  10     <b>you'll say that the subject of this</b>  11     <b>investigation that you're on now was who</b>  12     <b>leaked information to Rickey Stokes, not</b>  13     <b>whether or not somebody had talked to</b>  14     <b>Ms. Turner, but who leaked information to</b>  15     <b>Rickey Stokes.</b></p> <p>16     A. There are two things going on here. The judge  17     direct -- the judge's directive to their  18     employees not to have contact with Ms. Turner,  19     that was violated by Ms. Brackin. The web  20     site, your Exhibit 15, that has to do with  21     some of the contents of -- or with the  22     investigation itself. So you have the judge  23     directing all the employees not to have any</p>	<p>1      A. Yes. Of the investigation of Mary Turner.  2      But I'm confused now. For clarification --</p> <p>3      MS. NELSON: Well, it might help if he  4      would just ask you what occurred  5      instead of --</p> <p>6      MR. JAFFREE: I don't want to just --</p> <p>7      MS. NELSON: You don't want to get to the  8      truth. You don't want to get to the  9      facts of the case. You want to just  10     jump around and confuse and --</p> <p>11     MR. JAFFREE: I think I know the facts of  12     case as well as you do or maybe not.</p> <p>13     MS. NELSON: I don't think so.</p> <p>14     MR. JAFFREE: I mean, you may have some  15     documents that I don't have.</p> <p>16     Q. <b>Just a few more questions.</b></p> <p>17     A. Okay.</p> <p>18     Q. <b>Do you know if the judge made these two</b>  19     <b>demands at different times, don't discuss this</b>  20     <b>investigation and don't contact Mary Turner?</b>  21     <b>Do you know if they were made at two different</b>  22     <b>times?</b></p> <p style="text-align: right;">(Brief pause)</p>
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<p>1 MS. NELSON: If you know.</p> <p>2 <b>Q. If you know.</b></p> <p>3 A. Okay. It was on March 15th that the judge 4 advised -- excuse me -- March 10th, 2005, that 5 the judge advised the employees that 6 Ms. Turner was on administrative leave and 7 that there was an internal affairs 8 investigation being conducted. This is where 9 she also directed employees to refrain from 10 any contact with Ms. Turner while the internal 11 affairs investigation was underway.</p> <p>12 <b>Q. So are you saying these happened on different</b> 13 <b>days or the same day?</b></p> <p>14 A. This was on March the 10th that the judge gave 15 those directions.</p> <p>16 <b>Q. Did she give both directions on the same day?</b></p> <p>17 A. What I just read was under the same day.</p> <p>18 <b>Q. Do you know if she sort of gave those</b> 19 <b>directions at the same time?</b></p> <p>20 A. I'm not sure.</p> <p>21 <b>Q. Did she indicate to you that she considered</b> 22 <b>one direction more important than the other,</b> 23 <b>if you recall?</b></p>	<p>1 A. To my knowledge, the fire department and the 2 judicial department.</p> <p>3 <b>Q. Well, with respect to your investigation in</b> 4 <b>2001, did you list major offenses that you</b> 5 <b>found?</b></p> <p>6 (Brief pause)</p> <p>7 A. No, I didn't.</p> <p>8 <b>Q. Did you not find any major offenses during</b> 9 <b>your 2001 investigation?</b></p> <p>10 A. With regards to this investigation, the judge, 11 basically, told me during the allegation what 12 the offense was and -- which I explained to 13 you earlier, which was Ms. Brackin giving what 14 she termed to be legal advice to Ms. Ralpeje.</p> <p>15 <b>Q. Well, what major offense was that?</b></p> <p>16 A. And so that was -- that was just -- that was 17 the charge to -- to find out. So there was 18 already -- I was told what the allegations 19 were. So after I just found the facts, I 20 didn't have to rewrite what her --</p> <p>21 <b>Q. Oh, she'd given you a personnel rule violation</b> 22 <b>in that case? And we're talking about the</b> 23 <b>2001 case, right? She had already given you a</b></p>
<p style="text-align: center;">Page 106</p> <p>1 A. No, she didn't.</p> <p>2 <b>Q. Upon what authority, since you was just there</b> 3 <b>to gather facts, did you recommend a major</b> 4 <b>offense violation?</b></p> <p>5 A. That wasn't a recommendation. That was stated 6 in the personnel rules for the City of 7 Dothan. I didn't -- I didn't recommend that. 8 That's what it fell up under. That 9 violation is what it fell up under.</p> <p>10 <b>Q. Was it part of your charge to find out what</b> 11 <b>any violation you found fell under; is that</b> 12 <b>part of your charge?</b></p> <p>13 A. Yes. Not only this investigation, but 14 others. It's a -- if there's a violation of a 15 policy or whatever, you write what the 16 violation is after you find the -- after you 17 complete your investigation.</p> <p>18 <b>Q. But you've only -- with the exception of the</b> 19 <b>one involving the fire department, you've</b> 20 <b>really only done these sort of administrative</b> 21 <b>things with respect to the judicial</b> 22 <b>department, right?</b></p> <p>23 MS. NELSON: Object to the form.</p>	<p style="text-align: center;">Page 108</p> <p>1 <b>personnel violation?</b></p> <p>2 MS. NELSON: Object to form. That's not 3 what he testified to.</p> <p>4 MR. JAFFREE: Well, I'm trying to find 5 out.</p> <p>6 <b>Q. What are you testifying to? What did she give</b> 7 <b>you?</b></p> <p>8 A. As I've just stated, she said that I needed to 9 look into allegations that Mary Beth Brackin 10 was giving legal advice to Ms. Ralpeje, a 11 defendant in a criminal case. So I just 12 investigated the allegations and gave her the 13 facts of the allegations.</p> <p>14 <b>Q. But, here, you felt you needed to do more?</b></p> <p>15 MS. NELSON: "Here," you're referring to 16 the --</p> <p>17 A. This is a release of --</p> <p>18 MS. NELSON: Insubordination by Mary Beth 19 Brackin.</p> <p>20 <b>Q. I'm a little -- excuse me. If you was</b> 21 <b>investigating the release of information, what</b> 22 <b>does Mary Beth talking to Mary Turner have to</b> 23 <b>do with the release of information? Because</b></p>

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<p style="text-align: right;">Page 109</p> <p>1 that was your investigation. What 2 does -- you're looking at the release of 3 information, and then you talk about some 4 contact. What does that have to do with 5 release of information?</p> <p>6 MS. NELSON: Again, object to the form. 7 He stated that the release of 8 information started the investigation.</p> <p>9 MR. JAFFREE: Can I ask him?</p> <p>10 MS. NELSON: Yes, you can.</p> <p>11 MR. JAFFREE: Now, I know how bad you want 12 to infiltrate this Record with your 13 comments, but if I could just hear 14 from him.</p> <p>15 MS. NELSON: I'm just trying to keep a 16 clean record, and you're inferences 17 and testimony and confusion --</p> <p>18 MR. JAFFREE: Well, I'm asking him.</p> <p>19 MS. NELSON: -- have done nothing to allow 20 the Record to be clear.</p> <p>21 <b>Q. If your charge was who leaked information,</b> 22 <b>does Mary Beth Brackin speaking to Mary Turner</b> 23 <b>have anything to do with who leaked</b></p>	<p style="text-align: right;">Page 111</p> <p>1 authority can the internal affairs department 2 instruct a citizen not to contact another 3 citizen? What authority?</p> <p>4 MS. NELSON: Object to the form. It 5 was --</p> <p>6 <b>Q. You said you did it, so I'm trying to find out</b> 7 <b>what authority.</b></p> <p>8 MS. NELSON: Object to form. It was not 9 citizen to citizen.</p> <p>10 MR. JAFFREE: Excuse me.</p> <p>11 <b>Q. Is Mary Brackin a citizen?</b></p> <p>12 A. Yes. And she's also employed by the City of 13 Dothan which would make her a governmental 14 employee up under the City of Dothan's 15 umbrella. And under that is why they were 16 directed to not speak to one another during an 17 ongoing investigation.</p> <p>18 <b>Q. Well, I'm trying to find out by what authority</b> 19 <b>do you have to tell one employee to make no</b> 20 <b>contact with another employee?</b></p> <p>21 A. And I don't quite understand your word or your 22 definition of what authority, but my police -- 23 I was working under the authority of the</p>
<p style="text-align: right;">Page 110</p> <p>1 <b>information?</b></p> <p>2 A. I would consider that leaking information.</p> <p>3 <b>Q. Oh, you would?</b></p> <p>4 A. Mary Beth Brackin was interviewed like 5 everybody else was. She released information, 6 talking to Mary Turner about the investigation 7 when she was directed not to by the judge.</p> <p>8 <b>Q. Well, what about all these other people who</b> 9 <b>released information? Well let's not -- let's</b> 10 <b>not worry about them.</b></p> <p>11 <b>Have you -- and I guess you have answered</b> 12 <b>this, but since the departure of Mary Brackin,</b> 13 <b>have you been called upon to investigate any</b> 14 <b>other employee of the judicial department?</b></p> <p>15 A. Not to my knowledge.</p> <p>16 <b>Q. Now, can you tell me pursuant to what</b> 17 <b>authority -- but, first, two questions then</b> 18 <b>I'm through.</b></p> <p>19 <b>Do you know who instructed the judge to</b> 20 <b>tell her employees to have no contact with</b> 21 <b>Mary Turner?</b></p> <p>22 A. I had a conversation with her about that.</p> <p>23 <b>Q. Okay. Can you tell me pursuant to what</b></p>	<p style="text-align: right;">Page 112</p> <p>1 police chief at the time.</p> <p>2 <b>Q. So other than the police chief, can you point</b> 3 <b>to me anything that gives the police chief the</b> 4 <b>authority to tell somebody from another</b> 5 <b>department not to communicate or not to make</b> 6 <b>contact with a person in that department?</b></p> <p>7 A. The judge is actually who told them that.</p> <p>8 <b>Q. The judge told them that.</b></p> <p>9 A. I talked to the judge about having the 10 employees not make contact with Ms. Turner in 11 reference to this ongoing investigation that 12 we had. The judge directed her people in her 13 department --</p> <p>14 <b>Q. I see.</b></p> <p>15 A. -- to do that.</p> <p>16 <b>Q. Well, the judge tries to put it on you, but</b> 17 <b>that's fine. All right.</b></p> <p>18 MS. NELSON: Well, I'm --</p> <p>19 <b>Q. Did the chief instruct you to tell the judge</b> 20 <b>to have her people make no contact with</b> 21 <b>Ms. Turner?</b></p> <p>22 A. No.</p> <p>23 <b>Q. You did this on your own initiative?</b></p>

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1 A. Yes.	1 MS. NELSON: Gotcha. Okay.
2 Q. Well, since this on your own initiative, 3 pursuant to what authority did you do this?	2 (Brief pause)
4 A. It's an investigative practice. Kind of like 5 invoking the rule in court, which you'd be 6 familiar with, you do not want subjects of the 7 investigation talking with witnesses as you're 8 trying to conduct an investigation.	3 MR. JAFFREE: Let the Record reflect that 4 the witness is in thoughtful 5 deliberation.
9 Q. So is this discretionary just something that 10 you prefer, or was this under the penalty of 11 job loss?	6 A. I guess at the present time, the correct 7 response would -- would be, I'm uncertain 8 pending going back and reviewing some -- some 9 other information.
12 MS. NELSON: Object to the form. He's 13 trying to explain.	10 Q. All right. I accept that.
14 MR. JAFFREE: Well, I'm asking him.	11 Did you indicate to the judge how long 12 this no-contact directive should stay in 13 place?
15 MS. NELSON: He didn't say anything about 16 job loss. He's talking about 17 investigative practices.	14 A. I just said during the investigation, while it 15 was ongoing.
18 Q. Well, I mean -- but the result is a job was 19 lost because your directive was violated. I'm 20 trying to get some idea, where do you get the 21 power to do that?	16 Q. Did you advise the judge when the 17 investigation had been completed?
22 MS. NELSON: He said he didn't understand 23 your question. He didn't know. He's	18 A. She did receive a report.
	19 Q. From whom?
	20 A. It would have come from the chief of police, 21 I'm assuming.
	22 Which investigation are you referring to?
	23 Q. Well, we're talking about the investigation of
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1 trying to explain to you why --	1 the ticket, the investigation that the judge 2 had told them to make no contact, during that 3 investigation.
2 MR. JAFFREE: Can I get an answer from 3 him?	4 A. Oh, the release of information?
4 MS. NELSON: Asked and answered.	5 Q. No, not the release of information
5 A. What's your question?	6 investigation. We're talking about the ticket 7 investigation.
6 Q. Where do you get the power to do that? You 7 said, chief didn't tell you to do it.	8 MS. NELSON: Let's make the Record clear.
8 A. That's correct.	9 The Mary Turner ticket-fixing 10 investigation.
9 Q. So we can't go back to the chief.	11 MR. JAFFREE: Well, yeah, but --
10 A. That's correct.	12 MS. NELSON: After which Mary Turner was 13 suspended.
11 Q. And that's what your answer was first. So if 12 the chief didn't tell you to do it, where did 13 you get the power to suggest or to instruct 14 the judge to have her people not contact Mary 15 Turner?	14 MR. JAFFREE: And after which it turned 15 out there was no ticket fixing.
16 MS. NELSON: Object to the form. You can 17 answer.	16 MS. NELSON: And she was indicted.
18 THE WITNESS: Okay.	17 MR. JAFFREE: And she was not indicted for 19 any ticket fixing. It was a 20 misdemeanor.
19 (Brief pause)	21 MS. NELSON: Well, she was charged with 22 extortion.
20 MS. NELSON: You can you answer if you 21 know. But --	22 MR. JAFFREE: She was not charged with 23 extortion. She was charged with
22 THE WITNESS: I'm just thinking about 23 something.	

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<p>1 something dealing with misapplying 2 records. She was not charged with 3 extortion.</p> <p>4 MS. NELSON: She was charged with a 5 criminal offense.</p> <p>6 MR. JAFFREE: She was charged with a 7 misdemeanor.</p> <p>8 MS. NELSON: Well, we could sit here and 9 banter back all day.</p> <p>10 MR. JAFFREE: I can prove my point.</p> <p>11 MS. NELSON: Let's make the Record clear, 12 that the question on the table was 13 what?</p> <p>14 MR. JAFFREE: The question on the table 15 was --</p> <p>16 MS. NELSON: How long --</p> <p>17 <b>Q. Did you inform her that the investigation was 18 complete?</b></p> <p>19 MS. NELSON: The investigation into the 20 Mary Turner ticket fixing.</p> <p>21 <b>Q. The investigation involving Mary Turner and 22 the ticket. Did you inform the judge when 23 that investigation was complete?</b></p>	<p>1 report.</p> <p>2 A. I don't think that's correct.</p> <p>3 <b>Q. Well, that's what you implied, that she was 4 notified that the investigation was complete 5 when you turned in the report. You turned in 6 the report in May. So it was your 7 understanding, there should be no contact with 8 Mary Turner until May?</b></p> <p>9 A. The directive not to talk to Ms. Turner I 10 don't -- I'm not certain, but I don't believe 11 it came at the same time that this report 12 was --</p> <p>13 MS. NELSON: No. We're confusing things.</p> <p>14 <b>Q. Follow me carefully. Do not talk to her 15 during investigation of the ticket.</b></p> <p>16 A. Pardon me?</p> <p>17 <b>Q. The mandate was to not talk to Ms. Turner 18 during the investigation involving, as counsel 19 would say, ticket fixing?</b></p> <p>20 MR. JAFFREE: Did you like that? I'll go 21 along with the ticket fixing.</p> <p>22 MS. NELSON: I'll say ticket. I just want 23 to make sure what ticket and what</p>
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<p>1 A. I prepared the report, and I submitted it to 2 Chief John Powell. And it was subsequently 3 given to the judge.</p> <p>4 <b>Q. What was -- and this was involving the ticket?</b></p> <p>5 A. That's what you -- you asked me about.</p> <p>6 <b>Q. Is that what you're talking about, is the one 7 involving?</b></p> <p>8 MS. NELSON: The Mary Turner ticket with 9 Bradley Phelps?</p> <p>10 <b>Q. You prepared that report?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. And did you tell her then that the 13 investigation was complete?</b></p> <p>14 A. I don't know if I told her it was complete. I 15 submitted a report upon the completion of the 16 investigation.</p> <p>17 <b>Q. Well, what date did you submit that report?</b></p> <p>18 A. On or about May the 2nd of 2005.</p> <p>19 <b>Q. So there should have been no contact with 20 Ms. Turner from March the 10th until May the 21 2nd; is that correct?</b></p> <p>22 MS. NELSON: Object to the form. He just 23 said that's when he turned in the</p>	<p>1 investigation we're talking about. 2 And I think we've established that 3 took place on or about May the 10th.</p> <p>4 THE WITNESS: Yeah, that's correct.</p> <p>5 MS. NELSON: Of 2005.</p> <p>6 THE WITNESS: That's correct.</p> <p>7 MS. NELSON: Just trying to move things 8 along.</p> <p>9 A. That's correct.</p> <p>10 <b>Q. So the first word that the judge would have 11 had that the investigation was complete would 12 have been in May of 2005?</b></p> <p>13 MS. NELSON: Object to the form. The 14 internal affairs investigation?</p> <p>15 <b>Q. Internal affairs investigation, May of 2005?</b></p> <p>16 A. That's correct, when my report was finished.</p> <p>17 <b>Q. So your mandate would have been, nobody have 18 any contact with Mary Turner for two months?</b></p> <p>19 A. As it relates to the criminal -- excuse me, 20 not the criminal investigation, as it relates 21 to the investigation.</p> <p>22 <b>Q. Well, do you know whether or not Mary Beth had 23 any contact with Mary Turner involving the</b></p>

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<p>1        criminal investigation?</p> <p>2        A. I don't know whether they had contact</p> <p>3        involving a criminal investigation or not.</p> <p>4        Q. Well, there was --</p> <p>5        A. They had contact during the administrative</p> <p>6        investigation.</p> <p>7        Q. All right. During the administrative. Do you</p> <p>8        know if they -- do you know if Mary Beth</p> <p>9        contacted Mary Turner about the ticket</p> <p>10       investigation?</p> <p>11       A. I know that Mary -- could you rephrase -- say</p> <p>12       that again?</p> <p>13       Q. Let me ask it a different way: Based on</p> <p>14       information that you got from Mary Brackin,</p> <p>15       what was the nature of her contact with Mary</p> <p>16       Turner?</p> <p>17       A. She stated that she needed to obtain a</p> <p>18       show-cause letter and get the, quote, unquote,</p> <p>19       setup on it -- I believe were her words she</p> <p>20       used -- in reference to a show-cause letter.</p> <p>21       Q. If that statement is true, then did that have</p> <p>22       anything to do with contacting Mary Turner</p> <p>23       about the investigation?</p>	<p>1        Q. Yeah. Did you think through the consequences?</p> <p>2        A. Through --</p> <p>3        MS. NELSON: Object to the form.</p> <p>4        A. What do you mean?</p> <p>5        Q. Well, that you was -- wait a minute. Let</p> <p>6        me -- since you haven't answered that yet, let</p> <p>7        me --</p> <p>8        MS. NELSON: He doesn't understand you.</p> <p>9        He says, what do you mean. I've</p> <p>10       objected.</p> <p>11       Q. I'm going to replace it with another question</p> <p>12       that may make it easier for you to understand.</p> <p>13       Were you aware that Mary Beth and Mary</p> <p>14       Turner were close friends?</p> <p>15       A. Yes.</p> <p>16       Q. That they socialized with each other?</p> <p>17       A. That, I don't know.</p> <p>18       Q. Did you expect that for the period of time it</p> <p>19       took for the investigation to be completed,</p> <p>20       Mary Beth and Mary Turner should cease having</p> <p>21       any kind of social relationship with each</p> <p>22       other?</p> <p>23       A. Well, if I recall right, the judge told them</p>
<p>1        Page 122</p> <p>1        MS. NELSON: Object to the form.</p> <p>2        A. It doesn't have anything to do with contacting</p> <p>3        her about the investigation, but she wasn't</p> <p>4        supposed to contact with her.</p> <p>5        Q. Well, did you expect your directive to be all</p> <p>6        inclusive to no-contact at any time for any</p> <p>7        reason?</p> <p>8        A. During the course of the ongoing</p> <p>9        investigation -- let me refer back to the</p> <p>10       directive that was given.</p> <p>11       (Brief pause)</p> <p>12       A. Yes. The directive was to strictly refrain</p> <p>13       from any contact with Ms. Turner while the</p> <p>14       internal affairs investigation was underway</p> <p>15       and not to discuss with anyone the matter --</p> <p>16       the matter of the investigation.</p> <p>17       Q. So that was all contact of any nature,</p> <p>18       correct?</p> <p>19       A. It says, any contact.</p> <p>20       Q. Did you think through the consequences of your</p> <p>21       suggestion when you made it to the judge?</p> <p>22       MS. NELSON: Object to the form.</p> <p>23       A. Was that a question? I'm sorry.</p>	<p>1        Page 124</p> <p>1        that any contact with Mary Turner should go</p> <p>2        through her -- should go through her and would</p> <p>3        be approved by her. So to me, with that</p> <p>4        stipulation there, that doesn't mean 100</p> <p>5        percent that it's no possibility whatsoever.</p> <p>6        She just needed to approve it as the</p> <p>7        investigation was ongoing.</p> <p>8        Q. So every contact had to be precleared through</p> <p>9        the judge?</p> <p>10       A. Yes, if there was to be contact during this</p> <p>11       investigation.</p> <p>12       Q. Even contact after hours?</p> <p>13       A. I'd have to make an assumption. The directive</p> <p>14       was for them not to have contact. If they had</p> <p>15       to do -- to have contact with her, contact the</p> <p>16       judge pretty much for direction.</p> <p>17       Q. And if they were going to meet in church,</p> <p>18       contact the judge?</p> <p>19       A. I'm not reading between any lines. That was</p> <p>20       just what was said. And the interpretation of</p> <p>21       that is, I guess, what you're asking for?</p> <p>22       Q. Uh-huh (positive response).</p> <p>23       Now, have you ever given a non-police</p>

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<p>1      <b>officer employee of the City of Dothan that</b>  2      <b>type of directive before?</b>  3      MS. NELSON: What -- not to --</p> <p>4      <b>Q. To not contact their friends?</b>  5      MS. NELSON: Object to the form. Not to  6      discuss an ongoing criminal  7      investigation, not to contact somebody  8      under suspicion?</p> <p>9      MR. JAFFREE: Forget about the --  10     MS. NELSON: No. I think you need to ask  11     him --</p> <p>12     <b>Q. Don't contact their friends?</b>  13     MS. NELSON: Object to the form. That's  14     totally --</p> <p>15     <b>Q. You bifurcated these statements that the judge</b>  16     <b>made. You said, don't discuss the criminal</b>  17     <b>investigation. No contact. You made them two</b>  18     <b>separates things.</b>  19     MS. NELSON: The directive was not to have  20     contact with your friends; it was to  21     have contact with an employee who was  22     under investigation.</p> <p>23     <b>Q. But if the employee was their friend, no</b></p>	<p>1      A. I would need for you to repeat that again.  2      You've lost me.</p> <p>3      <b>Q. Let's assume that it was Ms. Brackin's husband</b>  4      <b>that we're talking about, and her husband had</b>  5      <b>worked with her in the magistrates' office.</b>  6      <b>And her husband was on administrative leave</b>  7      <b>while they were doing an investigation. Do</b>  8      <b>you think this no-contact directive could have</b>  9      <b>effectively kept them from associating with</b>  10     <b>each other?</b>  11     MS. NELSON: Object to the form. Object  12     to the hypothetical situation.</p> <p>13     A. Hypothetically, that's up to both of them.</p> <p>14     <b>Q. Up to them?</b>  15     A. Whether they --</p> <p>16     <b>Q. They don't --</b>  17     A. -- have talked or not but directive was -- was  18     clear.</p> <p>19     <b>Q. It would apply to them as well?</b>  20     A. The directive was clear. Now, whether they  21     did it or not, I don't know whether they would  22     or wouldn't.</p> <p>23     <b>Q. At first blush, that type of directive seems</b></p>
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<p>1      <b>contact would mean don't contact your friend.</b>  2      MS. NELSON: Object to the form, if that's  3      a question.</p> <p>4      A. As it relates to their friendship, I testified  5      earlier that I don't have any knowledge  6      whether they're close friends or just  7      co-workers.</p> <p>8      <b>Q. Let me give you a hypothetical and see if you</b>  9      <b>think the directive would apply to this.</b>  10     MS. NELSON: Object to any hypotheticals.  11     When I raise my hand, that will mean I  12     object to the form.</p> <p>13     <b>Q. What if Mary Turner's name was Mr. Turner and</b>  14     <b>Mary Brackin's name was Mary Turner, and they</b>  15     <b>happened to live together. They both worked</b>  16     <b>at the same place. Mr. Turner was on</b>  17     <b>administrative leave, under investigation.</b>  18     <b>Mary Turner was among a group of people that</b>  19     <b>was told, make no contact with Mr. Turner.</b>  20     Do you think that directive would still  21     apply?  22     MS. NELSON: Object to form, to the  23     hypothetical.</p>	<p>1      <b>reasonable, doesn't it?</b>  2      MS. NELSON: Object to the form.</p> <p>3      A. What do you mean?  4      MS. NELSON: To a hypothetical husband and  5      wife?  6      MR. JAFFREE: Well, no.</p> <p>7      <b>Q. The directive that you suggested that the</b>  8      <b>judge give and the judge gave seemed</b>  9      <b>reasonable at first blush, doesn't it?</b>  10     A. It's reasonable now.</p> <p>11     <b>Q. Reasonable now.</b>  12     A. Just like invoking the rule, it's reasonable  13     then.</p> <p>14     <b>Q. So would it be reasonable if these two were</b>  15     <b>married to each other to have no contact;</b>  16     <b>would it still be reasonable?</b>  17     MS. NELSON: Object to the form.</p> <p>18     A. Your hypothetical is if both of them worked  19     out of the same office --</p> <p>20     <b>Q. That's right.</b>  21     A. -- so both of them would be aware of the  22     investigation going on, especially if they're  23     married. So the directive was clear. And</p>

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1        whether they spoke about it or not, I don't 2        have --	1        them, Ms. Turner -- Ms. Brackin calling 2        Ms. Turner after being told not to by the 3        judge and making some type of inquiry that 4        Ms. Brackin claims that she made. 5        And for the Record, Ms. Turner didn't say 6        the same thing that Ms. Brackin said in her 7        statement.
3 <b>Q. You're not speaking about the investigation.</b> 4 <b>If they made contact with each other. You did</b> 5 <b>not say that Mary Beth talked to Mary Turner</b> 6 <b>about the investigation. You said she talked</b> 7 <b>to her about trying to get some information</b> 8 <b>that she needed, not about the investigation.</b> 9 <b>So forget about the investigation part.</b> 10 <b>Would it be reasonable to tell a wife not</b> 11 <b>to contact her husband because her husband was</b> 12 <b>under investigation?</b> 13        MS. NELSON: Object to the form. Object 14        to the hypothetical question.	8 <b>Q. I've read Ms. Turner's statement. Ms. Turner</b> 9 <b>didn't recall certain things. You won't get a</b> 10 <b>specific from Ms. Turner as to what the nature</b> 11 <b>of the contact was. I mean, you can look, but</b> 12 <b>you won't get it.</b> 13        MS. NELSON: Can we go off the Record for 14        a minute? 15        (Off-the-Record discussion.)
15 <b>Q. Do you think that's reasonable?</b> 16        MS. NELSON: Not the facts in this case. 17 <b>Q. Do you think that's reasonable, those facts?</b> 18        A. I don't know. 19 <b>Q. So if you change the status of the people,</b> 20 <b>then the directive is no longer reasonable?</b> 21        MS. NELSON: Object to the form. 22 <b>Q. Yes or no?</b> 23        A. If I change the status of the people, the	16 <b>Q. I don't have any more questions of you. If</b> 17 <b>counsel wants to ask you some questions, she</b> 18 <b>can.</b> 19        MS. NELSON: I'm just saying -- 20        MR. JAFFREE: I don't have any more 21        questions. 22        MS. NELSON: I don't either. I don't have 23        any questions.
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1        directive -- 2 <b>Q. Directive is no longer reasonable?</b> 3        MS. NELSON: Object to the form. 4 <b>Q. Well, are you saying it is reasonable to apply</b> 5 <b>to a husband and wife, no contact with each</b> 6 <b>other?</b> 7        A. I'm -- 8        MS. NELSON: Object to the form. It's 9        hypothetical. 10       A. I'm saying that your hypothetical question is 11       not what happened. 12 <b>Q. Well --</b> 13       A. And what happened was, Mary Beth Brackin was 14       given a directive not to talk, not to 15       associate, not to have anything to do -- and 16       I'm just paraphrase -- trying to paraphrase 17       what I read already -- with Ms. Turner during 18       the ongoing investigation. 19       The major offense of insubordination had 20       to do with Mary Brackin talking to Ms. Turner 21       after she was told not to. It didn't have to 22       do with them coming together, meeting, not 23       meeting. In this report, it had to do with	1 <b>Q. I appreciate your being here. And we shall</b> 2 <b>remain friends. Okay?</b> 3        A. Oh, yeah. 4        (Deposition concluded at 4:40 p.m.) 5        * * * * * * * * * 6        FURTHER DEPONENT SAITH NOT 7        * * * * * * * * *

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